



David M. Schlecker

Partner

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David is a highly experienced litigator and trial lawyer who represents clients in a broad range of litigation and arbitration matters throughout the United States. David has handled complex corporate and commercial litigation, insurance coverage, and bankruptcy litigation matters, including contract disputes, structured instruments and swaps disputes, partnership disputes, unfair competition claims, licensing disputes, securities fraud, professional liability, internal corporate investigations and ERISA claims. His clients have included public and private corporations, private equity firms, commercial banks, financing companies, investment funds, restaurant chains, pharmaceutical companies, water companies, electronic manufacturers and pension funds, among others. David also has represented financial institutions and investment professionals facing claims of misconduct in securities arbitration cases.

David's experience in advising clients and litigating on behalf of policyholders for insurance coverage also is extensive. He advises clients and has successfully achieved recoveries under Commercial Crime, Property, Builders Risk, Fiduciary Liability, Professional Liability, General Liability, Title Insurance, Trade Credit, Privacy and Directors and Officers Liability policies.

David also is a member of Reed Smith's Derivatives and Structured Products Group. He has advised clients on litigation issues pertaining to structured products and swaps, as well as obligations backed by monoline guarantees.

CAPABILITIES

Litigation & Dispute Resolution

Insurance Recovery
Investment Management
Complex Resolution Strategy
Financial Services Disputes
Private Equity & Investment Funds
Broker-Dealers and Investment Advisers
Trials

EXPERIENCE

Representing The Bank of New York Mellon as trustee on \$17 billion of COFINA bonds in litigation arising from the proceedings filed by the Commonwealth of Puerto Rico to restructure its debt

Defending U.S. bank in class action litigation involving sale of bonds in the context of Lehman bankruptcy proceedings.

Lead trial counsel to Wells Fargo Bank, N.A. Collateral Agent to the Junior Secured Noteholders In re Residential Capital, LLC, 518 B.R. 720 (Bankr. S.D.N.Y. 2014)(rejecting claims of Unsecured Creditors Committee to recover \$1 billion in alleged preferences and avoid liens.)

Representing European financial institutions in litigation arising from the Madoff fraud and the Fairfield Funds' Insolvency.

Representing Fannie Mae in the Ambac Assurance Co. and PMI Mortgage Insurance insolvency proceedings.

Representing The Bank of New York Mellon as trustee in numerous cases in the context of the Lehman Brothers Holdings Inc. bankruptcy.

Representing regional bank against claims of defamation filed by former loan officer.

Representing Pfizer in numerous commercial litigation matters in the United States involving breach of contract, licensing disputes, joint venture/development agreements, vendor disputes and many others.

Represents developer and administrator of extended service contract programs in contract litigation.

Represented Litigation Trustee for Avado Brands Litigation Trust in action against former and current directors and officers.

Represented association of owners of apartments at the largest resort on the island of St. Maarten in complex litigation to rebuild the resort destroyed by hurricanes.

Represented trustees of ERISA pension fund in successfully recovering millions of dollars from plan fiduciaries and others involved in a multinational securities fraud.

Represents financial institution noteholders in various matters to enforce their rights under the terms of the notes.

Represents several clients regarding surety bonds, performance bonds and indemnities in the context of commercial transactions.

Represented bank in litigation to recover under surety bond guaranteeing a financing transaction.

Represented large broker-dealer in securities arbitration matters.

Represent oil producer, distribution and retailer for coverage in connection with environmental pollution claims.

Represent loan originators and administrator in claims for insurance coverage under Property Valuation Insurance policy.

Represent financial institutions with respect to losses under Financial Institutions Bonds.

Represents healthcare company for coverage under E&O and commercial crime policies for Medicare fraud losses.

Represent large commercial bank for coverage under D&O policy for shareholder suits.

Representing premier data aggregator and publishing company for coverage from class action litigations for breach of data privacy.

Represent leading marketer and distributor of store card and pre-paid card products for financial and data losses due to hacking attack.

Represent general contractor and developer with respect to insurance claims arising from the collapse of a tower crane in Manhattan.

Represent premier university with respect to property losses sustained from fire and smoke damage to major research facility.

Represent largest municipal housing finance agency for, among other things, substantial losses arising from the events of September 11, 2001.

Represent the largest tobacco company in its claim for insurance coverage under its commercial crime policy where employees participated in a bribery kickback scheme.

Represent electronics company in securing payment for business income losses.

Represent restaurant chain in securing payment for business income losses sustained at different locations.

Represent a components parts manufacturing company in securing settlements with its insurance companies for environmental cleanup and defense costs.

Represent the largest beverage company for insurance coverage for racial discrimination claims.

Represent water utilities seeking compensation for damages to their facilities due to negligent installation of sewer lines, including securing insurance coverage for construction defects.

Represent limited partnership of property owners in securing insurance coverage for construction defects resulting in detachment and partial collapse of exterior wall of high rise commercial building.

Represent national retail/wholesale building supply store in securing coverage for statewide class action litigation.

Represent private water company in securing insurance coverage for expenses and settlements arising from hundreds of alleged bodily injury cases in New Jersey.

Represent pharmaceutical company in securing insurance coverage for expenses incurred in defending against nationwide Bendectin litigation.

Represent national media, cable and communications company in securing insurance coverage for claims alleging misappropriation of confidential information.

MULTIMEDIA, PERSPECTIVES, NEWS & EVENTS

Perspectives

1 January 2017 New York Law Journal

Privilege Standard Was Misinterpreted

6 July 2016 Reed Smith Client Alerts

A Flip on the Flip Clause: Lehman Court Changes Course on Flip Provisions and Financial Safe Harbors

Blog Posts

6 July 2016 Global Restructuring Watch

Lehman Court Changes Course on Flip Provisions and Financial Safe Harbors

CREDENTIALS

Education

- George Washington University Law School, J.D., Law Review
- University of Pennsylvania, B.A., cum laude

Professional Admissions & Qualifications

- New York

Court Admissions

- U.S. Court of Appeals - Second Circuit
- U.S. District Court - Southern District of New York
- U.S. District Court - Eastern District of New York

Professional Affiliations

- American Bar Association
- New York State Bar Association
- Certified FINRA Arbitrator

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Neil is a partner in the Financial Services Litigation practice area of Reed Smith's Financial Industry Group, resident in the New York office. He has substantial experience and a successful record in complex commercial litigation, including derivative and class actions, contract disputes, business torts, and shareholders litigation stemming from various business combinations, and represents a broad range of financial institutions, insurance companies, global and domestic manufacturers and service providers, and individuals.

Neil's primary practice area includes financial services litigation. He has represented a broad group of financial institutions, issuers, and individuals in connection with federal and state actions under the securities laws, as well as regulatory and enforcement matters. This includes numerous actions under the Securities Act of 1933 (e.g., Sections 11,12,15), the Securities Exchange Act of 1934 (e.g., Sections 10(b)/Rule 10b-5, and Section 20(a)), the Investment Company Act (e.g., Sections 34(b), 36(b), 48(a)), and the Investment Advisers Act of 1940 (e.g., Sections 206, 215). Neil has particular expertise working with investment advisers and their affiliates on corporate governance, compliance, regulatory, litigation, and enforcement matters. An active core member of Reed Smith's FinTech team, he is a thought leader and represents client in connection with technology, FinTech, blockchain, and digital currency regulatory and contested matters.

In addition, Neil has worked with a diverse array of industries in connection with his antitrust and competition practice, including generic pharmaceuticals, heavy-duty trucks, medical devices and supplies, home and commercial security and safety solutions, and petroleum.

CAPABILITIES

Financial Industry

Litigation & Dispute Resolution
Financial Services Disputes
Antitrust & Competition
FinTech
Digital Innovation

EXPERIENCE

Financial Services Litigation

- In re American Mutual Funds Fee Litig.*, No. 04 CV 5593 (GAF) (C.D. Cal.); 10-55221 (9th Cir.)
- In re Federated Mutual Funds Excessive Fee Litig.*, No. 04-cv-352-DCS (W.D. Pa.)
- Korland v. Capital Research & Mgmt. Co., et al.*, No. 08 CV 4020 (GAF) (C.D. Cal.)
- In re American Funds Sec. Litig.*, No. 06 CV 7815 (GAF) (C.D. Cal.); 08-56034 (9th Cir.)
- In re Salomon Smith Barney Mut. Fund Fees Litig.*, No. 04 CV 5289 (PAC) (S.D.N.Y.); 08-0038 (2d Cir.)
- Gilliam v. Fidelity Mgmt. & Research Co.*, No. 04 CV 11600 (NG) (D. Mass.)
- Olmsted v. Pruco Life Ins. Co.*, No. 00 CV 1340 (ILG) (E.D.N.Y.); 00-9511 (2d Cir.)
- Green v. Fund Asset Mgmt. LP*, No. 97 CV 3502 (DRD) (D.N.J.); 01-2736 (3d Cir.)
- Represent Citigroup, Deutsche Bank, and Neuberger Berman in connection with class actions alleging mutual fund investment advisers failed to cause their funds to participate in securities class action settlements.
 - Responsible for convincing plaintiffs' counsel to drop lawsuits against all clients.
- In re FLAG Telecom Holdings, Ltd. Sec. Litig.*, No. 02 CV 3400 (CM) (S.D.N.Y.); 07-4017 (2d Cir.)
- Garber v. Legg Mason, Inc.*, 06 CV 9436 (DC) (S.D.N.Y.); 08-1831 (2d Cir.)
- Hawaii Structural Ironworkers Pension Trust Fund v. Calpine Corp.*, 04 CV 21465 (JK) (Cal. Super. Ct.)
- Todd v. Exxon Corp.*, 97 CV 4557 (JES) (S.D.N.Y.); 01-7091 (2d Cir.)
- In re Nellson Nutraceutical, Inc.*, No. 06-10072 (CSS) (Bankr. Del.)

MULTIMEDIA, PERSPECTIVES, NEWS & EVENTS

Perspectives

28 September 2018 TABB Forum

Coin Toss Future of ICO Litigation Depends on Evolution of Howey Test

13 October 2015 Reed Smith Client Alerts

Ninth Circuit Affirms Dismissal of '40 Act Section 36(b) Excessive Fee Action Against Davis

17 July 2015 Reed Smith Client Alerts

Court Dismisses in Part a Mutual Fund Excessive Fee Action Against SEI

23 June 2014 Reed Smith Client Alerts

Supreme Court Reaffirms Basic v. Levinson Presumption of Reliance

News

8 January 2015

Reed Smith Names 24 New Partners, 19 New Counsel Worldwide

Events

16 October 2018

Digital Token Investment – What institutional investors need to know about ICOs

4 April 2016

Is Your Asset Management Firm Prepared When Things Go Wrong?

Blog Posts

3 December 2018 FinTech Update

Federal Court denies SEC Injunction in Blockvest ICO

3 December 2018 Technology Law Dispatch

Federal Court deals SEC a setback in Blockvest ICO litigation

27 November 2018 Technology Law Dispatch

SEC settles two ICO enforcement actions

27 November 2018 FinTech Update

SEC settlement of two ICOs based on sales of unregistered securities: No fraud claims asserted

9 November 2018 FinTech Update

SEC in First Enforcement Action Against Token Exchange

2 July 2018 FinTech Update

Applying Howey, Court Concludes that Centra Token Likely a Security:

Digital token ruled a security under the Howey Test, for now

24 June 2014 Global Regulatory Enforcement Law Blog

Supreme Court Reaffirms Basic v. Levinson Presumption of Reliance

23 June 2014 Global Regulatory Enforcement Law Blog

Breaking News - Supreme Court Vacates and Remands in Halliburton

19 June 2014 Global Regulatory Enforcement Law Blog

Message From FINRA Enforcement Chief: "Talk to Me"

6 March 2014 Global Regulatory Enforcement Law Blog

Supreme Court Probes "Midway" Position in Halliburton

CREDENTIALS

Education

- Albany Law School, 1999, J.D., magna cum laude, *Albany Law Review*, Executive Editor for Business; Justinian Society
- St. Lawrence University, 1994, B.A., Government, cum laude

Professional Admissions & Qualifications

- New York

Court Admissions

- Supreme Court
- U.S. Court of Appeals - Second Circuit
- U.S. Court of Appeals - Eighth Circuit
- U.S. Court of Appeals - Ninth Circuit
- U.S. District Court - Southern District of New York
- U.S. District Court - Eastern District of New York
- U.S. Court of Appeals - Eleventh Circuit
- U.S. District Court - District of Colorado

Professional Affiliations

- American Bar Association

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Lou is Head of Reed Smith International Litigation (US). He is an internationally recognized trial lawyer, having tried over 50 complex commercial cases to judges, juries, and arbitral or governmental bodies.

Lou has litigated to successful conclusion over a dozen controversies each approaching or exceeding a billion dollars. Lou has extensive experience in acting as lead trial counsel in international disputes or controversies affecting multinational companies operating across the globe. Lou has served as lead trial counsel in private and class action cases as well as government and regulatory proceedings in a wide range of subject matters, practice areas, and industries.

The Wall Street Journal has described Lou's "long and distinguished career as a corporate litigator." Other national and international credentialing organizations praise him as a trial lawyer with "immense" experience; "particularly prized for his strong international litigation experience"; "highly experienced trial lawyer handling cases in a wide range of areas, from antitrust to IP to international litigation"; "specializ[ing] in pulling clients out of the fire"; "ascribe this life-saving ability to his exceptional judgment when advising on risky business or regulatory situations"; and "just as good at crafting watertight settlements. A judge has recently described his presentation as "spectacular" and "effective". No detail or potential future risk escapes him." He is recognized as a leading practitioner by: Best Lawyers in America (Bet-The-Company Litigation, Commercial Litigation, Antitrust Litigation, Intellectual Property Litigation); Benchmark Litigation (Commercial Litigation), Chambers, and many others.

Lou has leading trial and appellate victories involving international litigation issues, and his extensive international litigation experience has included litigations and arbitrations involving numerous EU countries, Latin America, Asia, Africa, the Middle East, as well as Russia and other former Soviet countries. Lou is the

CAPABILITIES

Litigation & Dispute Resolution
Complex Resolution Strategy
Trials

EXPERIENCE

- Antitrust:** Involving the world's largest vitamins cartel; separate FTC proceeding involving pharmaceutical life cycle management; separate litigations under sections 1 and 2; leading decisions in trial and appellate court on market definition and monopolistic practices.°
- Breach of contract:** Including successfully defending against \$750 million damages claim against Forbes 20 company; separate representation at damages phase of trial over sale of bottling distribution routes.°
- Complex Commercial:** Including \$100+ million trial on indemnities for the sale of aircraft manufacturing facilities; separate financial services litigations; separate representation succeeding in upholding transfer restrictions in one of America's largest privately held companies.°
- Contract Government Regulation:** The development of Manhattan's West Side Stadium and the United States' bid for the Olympics; separate class action litigation involving the meadowlands football stadium; major litigation on behalf of Verizon involving the entire FiOS franchise for New York City.°
- Copyright:** Involving the world's largest Internet site (Google/YouTube).°
- Corporate Governance/Shareholder Action:** Including in trials in New York and Delaware and many other states.°
- Environmental:** Major trials involving spill site in Rhode Island; separate trial involving environmental contamination at 15 aircraft manufacturing plants across the US.°
- False advertising and unfair competition:** Involving the largest bottled water and vitamin water products in the U.S. and the world, respectively, obtaining an precedent-setting decision on preemption in nationwide class actions.°
- Financial/Securities:** Including disputes over complex financial products.°
- International:** U.S. and International trial and ADR matters for clients such as BSGR, FIFA, Bouygues, Goodyear, PepsiCo (worldwide), and many others.°

International Art/Ownership/Replevin: Involving defense of a world-leading museum involving allegedly Nazi-looted German expressionist paintings -- successful dismissal affirmed by Second Circuit; separate litigation over the most famous Brancusi sculpture, Miss Pogany.°

Insurance/Reinsurance: Including multiple trials securing hundreds of millions in coverage and ultimate resolution in excess of \$1 billion.°

IP/Patent/Technology: Including trials involving the world's largest ethical pharmaceutical product; separate case involving on-line mapping in the real estate industry, including major Federal Circuit claim construction ruling; separate cases involving TMT technology for Huff Companies; separate case for Fox News. He secured an important victory in the U.S. Federal Circuit Court on behalf of Real Estate Alliance Ltd. in a patent case involving more than 35 real estate industry defendants who allegedly infringed on the company's pioneer patent describing mapping methods for locating available real estate properties for sale, lease, or rental.°

License, development agreements, non-competes: Including successful multi-billion dollar arbitration involving one of the world's best-selling cancer products.°

Pharma/Biotech: Including brand pharma companies, generics, developers.°

Real Estate Development/Construction: Including matters for development, operators, contractors in New York, other states, and overseas.°

Restructuring: Including trials in bankruptcy and district court; two major trials involving the largest dissolution case in New York history.°

Securities/Corporate Governance: Including SEC, FCPA, and internal investigations.°

MULTIMEDIA, PERSPECTIVES, NEWS & EVENTS

News

13 September 2018

27 Reed Smith Attorneys Named New York Super Lawyers or Rising Stars

15 August 2018

Reed Smith attorneys recognized by *Best Lawyers in America*

3 May 2018

Reed Smith earns high rankings in Chambers USA 2018

18 January 2018

Reed Smith Adds Three Partners to Complex Litigation Practice in New York

AWARDS & RECOGNITION

- Team Member, *U.S. News - Best Lawyers®*, Best Law Firms Edition, "Law Firm of the Year," Banking & Finance - Litigation, 2017
- Team Member, *U.S. News - Best Lawyers®*, Best Law Firms Edition, "Law Firm of the Year," Real Estate - Litigation, 2017
- Listed, *Chambers USA*, Leading Lawyers, 2017
- Listed, *The Best Lawyers in America*, Bet-The-Company Litigation, Commercial Litigation, Antitrust Litigation, Intellectual Property Litigation
- Listed, *Benchmark Litigation*, Commercial Litigation
- Listed, *LawDragon 500* Leading Lawyers in America, New Stars, New Worlds and Leading Lawyers in America
- Listed, New York Metro Super Lawyers
- Listed, *Best of The U.S. Legal Directory*, Best of Class: Commercial Litigation
- Listed, *The Legal 500* United States

CREDENTIALS

Education

- Harvard Law School, 1979, J.D., magna cum laude
- Yeshiva University, 1976, B.A., summa cum laude

Professional Admissions & Qualifications

- New York

Court Admissions

- U.S. Supreme Court

Professional Affiliations

- President (Parnas), Congregation Shearith Israel, America's Oldest Jewish Congregation
- Member, Lawyers Committee of the National Center for State Courts (NCSC)

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Eric is a partner at Reed Smith practicing in the area of Restructuring & Insolvency. From an early age, Eric dreamed of representing indenture trustees in matters involving defaulted securities. Happily, he has spent much of the last 30 years doing just that in courts within and beyond the United States. He has represented trustees in major bankruptcy cases, receiverships, non-judicial restructurings, and litigation involving heavy industry, healthcare, investment banking, retailers, utilities, airlines, sovereign and municipal issuers, mining, gaming, schools and colleges, and cultural institutions. Eric also has done a wide range of presentations on corporate trust default issues. Outside the world of corporate trust, Eric is actively involved with several civic and cultural organizations. He is an aging cyclist, who claims that he has ridden with the winners of 15 8 Tours de France.

Eric has been a featured panelist on the subject of corporate trust defaults at meetings of the American Bankers Association and the American Bar Association. He has lectured before bar associations and other groups on a wide range of topics, including cross-border insolvency proceedings, municipal insolvencies, receiverships, and Article 8 execution procedures. Eric's recent speaking engagements are included below. Eric also presents in-house programs to clients.

Eric's representation of indenture trustees, collateral agents and other corporate trust agents extends to a wide range of debt instruments, industries and jurisdictions.

- He has represented trustees for municipal debt issuers across the country in connection with restructurings, receiverships, bankruptcies and litigation (including lender liability actions) involving governmental units (Commonwealth of Puerto Rico; County of Jefferson, Alabama; Orange County, California), hospitals (Forum Health; Allegheny Health, Education and Research Foundation; St. Francis Healthcare System;

Richwood Area Hospital; Barnett Hospital, Fort Worth Osteopathic Hospital; Bayonne Hospital), airlines (USAirways), real estate (Property Development Group, Forum Place, Columbia Management), gaming (Buffalo Thunder Development Authority), hospitality (Prime Motor Inns, Austin-Bergstrom Land Enterprises, VMS Hotel), nursing homes and public housing (Patten Towers, Senior Lifestyle, Ravenwood Healthcare, Rock Glen Healthcare, Friendship Village of Dayton, Kearsley Long Term Care Center), schools (Windrush Academy, Harrisburg University of Science and Technology), waste disposal (The Harrisburg Authority, Lanchester Energy), and fitness, research and cultural facilities (Anchorage Sportsplex, Vaccine and Gene Therapy Institute, National Sports Attraction).

- He similarly has represented trustees for corporate debt securities in matters involving investment banking (Lehman Brothers), energy and mining (Cobalt International Energy, VeraSun Energy, Molycorp Minerals, Anker Coal Group, East Cameron Partners, Tervita, Ziegler Coal, Endeavour Operating Corp.), airlines (ATA Airlines), mortgage banking (Rescap, Thornburg Mortgage Inc., TMIC), retailers (Revco D.S., McCrory Parent), shipping (Trico Marine Services, The Holt Group), real estate (Resort Development Corp.), communications (iHeart Communications) and heavy industry (Weirton Steel Corp., Solutia).
- A substantial part of Eric's practice involves cross-border matters. This extends to domestic cases involving foreign obligors or law, such as Baha Mar (Bahamas), The Republic of Argentina, The Bolivarian Republic of Venezuela, Catalyst Paper Corp. (Canada), East Cameron Partners (Sukuk), and foreign cases involving debt securities governed by New York law, including The Republic of Argentina (England, Belgium), Agrokor d.d. (Croatia), Sobieski (Poland), Belvédère (France), Tervita (Canada), Olympia & York (Canada), Lehman Brothers (England) and Global Automotive Logistics (France).

Eric also has handled a wide range of insolvency matters for other clients, including representation of Chapter 11 debtors (PTC Alliance, Rue 21), creditors' committees (U.S. Gen New England, LTV Steel) and major creditors in state court receiverships (August Wilson Center, Devon Capital, STS) and bankruptcy cases (Pittsburgh Hockey Associates, Campo Appliances, Boston Market, Agripac, Total Waste).

CAPABILITIES

Restructuring & Insolvency

Financial Industry

Structured Finance

Financial Services Disputes

MULTIMEDIA, PERSPECTIVES, NEWS & EVENTS

Reed Smith Receives Broad Recognition in *Chambers USA 2015*

2015

Who's Who Legal 2015

20 August 2014

Reed Smith Lawyers Earn 2015 “Lawyer of the Year” Accolades in 14 Practices Across Four Metro Areas Nationwide from Best Lawyers

17 July 2014

Chambers USA 2014: The Client's Guide

27 May 2014

Reed Smith Announces 46 Super Lawyers, 19 Rising Stars in Pennsylvania

23 May 2014

Reed Smith Earns Strong Chambers USA 2014 Rankings

Events

18 December 2018

ABA Corporate Trust Telephone Briefing

31 October 2018

American Bankers Association

Holders Are Not Our Friends: Litigating Holder Claims

13 April 2018

ABA Section of Business Law Spring Meeting

International Bond Defaults: Navigating the Thicket of Recalcitrant Sovereigns, Aggressive Bondholders and Conflicting Laws

8 September 2016

American Bar Association, Business Law Section Annual Meeting

Caught in the Cross-Fire: Recent Litigation Issues Confronting Indenture Trustees in Contentious Distressed Situations.

15 December 2015

American Bankers Association Briefing: Year-end Review of Critical Issues Facing Corporate Trust

An Indenture Trustee’s Guide To Plausible Deniability

27 October 2015

ABA Corporate Trust Committee Meeting

An Indenture Trustee’s Guide To Plausible Deniability

21 May 2015

Turnaround Management Association's May Lunch Meeting

Through the Looking Glass: The Dramatic Story behind the August Wilson Center Receivership

Strafford Publications Webinar

Municipal Insolvencies in the Wake of Detroit: Navigating Chapter 9 and Out-of-Court Restructuring

Blog Posts

6 July 2016 Global Restructuring Watch

Lehman Court Changes Course on Flip Provisions and Financial Safe Harbors

AWARDS & RECOGNITION

- Fellow, American College of Bankruptcy
- Listed in *The Best Lawyers in America* in the area of Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law (2005-2016)
- Included in *Chambers USA* as one of America's leading bankruptcy/restructuring lawyers (since 2004)
- Selected for inclusion in *Pennsylvania Super Lawyers* (since 2004); also included in *Super Lawyers Business Edition* in the area of Bankruptcy/Business
- Listed in *Who's Who Legal USA* in the area of Insolvency & Restructuring

NOTABLE QUOTES

- 15 December 2017 "Asset trust concept would shake up public finance, advocates say" *The Bond Buyer*

CREDENTIALS

Education

- University of Pittsburgh School of Law, 1979, J.D., Order of the Coif
- University of Pittsburgh School of Engineering, Post-graduate studies in chemical engineering
- University of Virginia, 1976, B.A., Government and Foreign Affairs, High Honors, Phi Beta Kappa

Professional Admissions & Qualifications

- New York

- Pennsylvania

Court Admissions

- U.S. Supreme Court
- State Court of Appeals - New York
- State Supreme Court - Louisiana
- State Supreme Court - Ohio
- State Supreme Court - Pennsylvania
- U.S. Court of Appeals - Second Circuit
- U.S. Court of Appeals - Third Circuit
- U.S. Court of Appeals - Fourth Circuit
- U.S. Court of Appeals - Fifth Circuit
- U.S. Court of Appeals - Sixth Circuit
- U.S. Court of Appeals - Eighth Circuit
- U.S. Court of Appeals - Ninth Circuit
- U.S. Court of Appeals - Tenth Circuit
- U.S. Court of Appeals - Eleventh Circuit

Professional Affiliations

- Allegheny County Bar Association
- American Bankruptcy Institute
- American Bar Association

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Kurt is the managing partner of the Delaware office. He is a member of the firm's Financial Industry Group, practicing in the area of Commercial Restructuring & Bankruptcy for over 25 years. Kurt is a Fellow of the American College of Bankruptcy (23rd Class) and is recognized in Chambers USA, America's Leading Lawyers, as a "Band 1" reorganization/bankruptcy attorney in Delaware. In 2010, Kurt was selected as one of the "10 Most Admired Bankruptcy Attorneys" in the United States by Law360 (based on 1,016 nominations from practice group heads at the 100 largest law firms in the United States). Kurt is also recognized in Best Lawyers in America and Delaware SuperLawyers.

Kurt has served as a court-appointed expert, a court-appointed examiner, and a court-appointed trustee in chapter 11 and chapter 7 bankruptcy cases. In addition, Kurt has represented secured creditors, indenture trustees, creditors' committees, debtors, and other parties in interest in bankruptcy cases throughout the United States.

Kurt is a 1992 graduate of the University of Pennsylvania Law School. He was a Senior Editor of the Journal of International Business Law and a winner of Penn's Edwin R. Keedy Cup Moot Court Competition. Kurt received his B.A., *summa cum laude*, in Political Science, with a minor in Business Administration, from the University of Central Florida in 1988. He was an Academic All American in 1986 (football).

Upon graduating from law school, Kurt served as a law clerk to the Honorable Bruce Fox of the U.S. Bankruptcy Court for the Eastern District of Pennsylvania.

CAPABILITIES

Financial Industry

EXPERIENCE

Represented lender in Earnshaw Associates Limited, GolfSmith, True Religion, and Goody's

Represented indenture trustee in Energy Future Holdings, SandRidge Energy, Energy, Light Tower Rental, Indianapolis Downs, 38 Studios, North Texas Bancshares, Eddie Bauer, Trico Marine, and VeraSun Energy

Represented official committees in Extreme Plastics (creditors committee), GSE Environmental (creditors committee), Odom Industries (creditors committee), Metaldyne Corporation (creditors committee), Accuride Corporation (creditors committee), Birmingham Steel (creditors committee), Slater Steel (creditors committee), Precision Metals (creditors committee), Zany Brainy (creditors committee), Atlantic Gulf Communities (creditors committee), Trans-World Airlines (retirees committee)

Appointed examiner in CF Capital

Appointed chapter 11 trustee in several cases, including Quintus Corporation, Mustang.com, Inc., Acuity Corporation, Elcom Technologies Corporation and TelePad Corporation

Represented largest trade creditor in TerreStar Network Corporation

Represented largest steel supplier in Chrysler LLC, General Motors Corporation, and Magnatrax Corporation chapter 11 bankruptcy cases, and supplier/reclamation claimant in Dana Corporation

MULTIMEDIA, PERSPECTIVES, NEWS & EVENTS

Perspectives

29 November 2017 Reed Smith Client Alerts

Amendments to the Federal Rules of Bankruptcy Procedure Effective on December 1, 2017

Fall 2014 American Bankruptcy Law Journal

Pandora's Box and Peace on the Darkling Plain

News

15 August 2018

Reed Smith attorneys recognized by *Best Lawyers in America*

18 May 2018

2 Delaware Lawyers Named Super and Rising Star

17 May 2014

Association of Commercial Finance Attorneys CLE Weekend
Intercreditor Issues and Unitranche Loans

AWARDS & RECOGNITION

- Fellow of the *American College of Bankruptcy* (23rd Class). Fellowship in the American College of Bankruptcy is by invitation only. Nominees for Fellows are extended an invitation to join based on a record of achievement in the insolvency process by professionals who have distinguished themselves in their practice and in their contribution to the insolvency field. Fellows are selected by a Board of Regents from among recommendations of the Circuit Admissions Council in each federal judicial circuit. (No aspect of this advertisement has been approved by the Supreme Court of New Jersey.)
- Recognized in *Chambers USA, America's Leading Lawyers*, as one of America's leading Bankruptcy/Restructuring lawyers (Band 1). A description of the selection methodology can be found at chambersandpartners.com/methodology. (No aspect of this advertisement has been approved by the Supreme Court of New Jersey.)
- Recognized in the *Best Lawyers in America* for Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law. The Best Lawyers in America list is issued by Best Lawyers. A description of the selection methodology can be found at bestlawyers.com. (No aspect of this advertisement has been approved by the Supreme Court of New Jersey.)
- Recognized in 2010 as one of "10 Most Admired Bankruptcy Attorneys" in the United States by *Law360* (based on 1,016 nominations from practice group heads at the 100 largest law firms in the United States). Nominations were reviewed by a board comprising experienced lawyers and Law360 editorial staff. Sixty-five attorneys covering seven practice areas of the law were then selected to be profiled for the "Most Admired" series. (No aspect of this advertisement has been approved by the Supreme Court of New Jersey.)
- Recognized as a Delaware *SuperLawyer* beginning in 2007 for Bankruptcy Law. The SuperLawyers list is issued by SuperLawyers, a part of Thomson Reuters. A description of the selection methodology can be found at SuperLawyers.com. (No aspect of this advertisement has been approved by the Supreme Court of New Jersey.)
- Selected for inclusion on the 2018 Delaware *SuperLawyers* list.

CREDENTIALS

Education

- University of Pennsylvania Law School, 1992, J.D., Senior Editor of the *Journal of International Business Law*; Winner of Penn's Edwin R. Keedy Cup Moot Court Competition
- University of Central Florida, 1988, B.A., summa cum laude, NCAA Academic All-American (1986) (football)

Professional Admissions & Qualifications

- New York
- Delaware
- Pennsylvania
- New Jersey

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals - Third Circuit
- U.S. District Court - District of Delaware
- U.S. District Court - Eastern District of Pennsylvania
- U.S. District Court - Western District of Pennsylvania
- U.S. District Court - Central District of Illinois
- U.S. District Court - Eastern District of Michigan
- U.S. District Court - Northern District of Texas
- U.S. District Court - District of New Jersey
- All State Courts - New York
- All State Courts - Delaware
- All State Courts - New Jersey
- All State Courts - Pennsylvania

Professional Affiliations

- American College of Bankruptcy (23rd Class)
- American Bankruptcy Institute

Clerkships

- Honorable Bruce Fox, U.S. Bankruptcy Court - Eastern District of Pennsylvania

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Luke A. Sizemore

Partner

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Luke is a member of the Financial Industry Group, practicing in the area of Commercial Restructuring & Bankruptcy. Luke's practice is focused on representing indenture trustees, financial institutions, lessors, utilities, other secured and unsecured creditors, and corporate debtors in bankruptcy cases and non-judicial restructurings throughout the United States. Luke regularly defends creditors in bankruptcy-related contested matters and adversary proceedings, including preference and fraudulent transfer litigation and stay violation proceedings. Luke also advises counterparties to financial contracts entitled to safe harbor protections under the Bankruptcy Code.

CAPABILITIES

Financial Industry

Restructuring & Insolvency

EXPERIENCE

Represented the following chapter 11 debtors: Geo. V. Hamilton, Inc. (Bankr. W.D. Pa.); Metex Mfg. Corporation (Bankr. S.D.N.Y.); PTC Seamless Tube Corp. (Bankr. W.D. Pa.).

Represented indenture trustees in the following chapter 9 and chapter 11 bankruptcy cases: Anchorage Sportsplex, Inc. (Bankr. D. Alaska); Capital Trust Holdings, Inc. (Bankr. D. Md.); City of Harrisburg, Pennsylvania (Bankr. M.D. Pa.); Endeavour Operating Corporation (Bankr. D. Del.); FiberTower Network

Services Corp. (Bankr. N.D. Tex.); Jefferson County, Alabama (Bankr. N.D. Ala.); MolyCorp, Inc. (Bankr. D. Del.); Physiotherapy Holdings, Inc. (Bankr. D. Del.); and The Baptist Home of Philadelphia (Bankr. E.D. Pa.).

Represented indenture trustees in the following cross-border insolvency proceedings and related chapter 15 bankruptcy cases: Catalyst Paper Corp. (Canada);); China Medical Technologies, Inc. (Cayman Islands); and Tervita Corporation (Canada).

Represented indenture trustee in the state court receivership of Vaccine and Gene Therapy Institute of Florida Corp (Florida).

Represented landlords in the following chapter 7 and chapter 11 bankruptcy cases: Plextronics, Inc. (Bankr. D. Del.); RadioShack Corporation (Bankr. D. Del.); Settlers Ridge No. 3, L.P. (Bankr. W.D. Pa.); The Wet Seal, Inc. (Bankr. D. Del.); and Universal Technology, Inc. (Bankr. W.D. Pa.)

Represented creditor-defendants in preference litigation in connection with the following bankruptcy cases: Castle Cheese Inc. (Bankr. W.D. Pa.); Consolidated Bedding Inc. (Bankr. D. Del.); Fleetwood Enterprises, Inc. (Bankr. C.D. Cal.); Meridian Automotive Systems, Inc. (Bankr. D. Del.); New Energy Corp. (Bankr. N.D. Ind.); NewPage Corporation (Bankr. E. Del.); Noble International, Ltd. (Bankr. E.D. Mich.); RS Legacy Corporation (Bankr. D. Del.); SII Liquidation Company (Bankr. N.D. Ohio); SRC Liquidation, LLC (Bankr. D. Del.); The Brown Publishing Co. (Bankr. E.D.N.Y.); Tin Man Snacks, LLC (Bankr. D.N.J.); Trailblazers, Inc. (Bankr. E.D. Ky.); Vireol Bio Energy LLC (Bankr. E.D. Va.); Women's Apparel Group LLC (Bankr. D. Mass.); and WP Steel Venture LLC (Bankr. D. Del.).

Represented defendants in fraudulent transfer litigation in connection with the following bankruptcy cases: Global Bullion Trading Group, Inc. (Bankr. S.D. Fla.); Physiotherapy Holdings, Inc. (Bankr. D. Del.); and Tribune Company (S.D.N.Y.).

Represented several mortgage servicers in a variety of bankruptcy-related litigation in jurisdictions nationwide.

MULTIMEDIA, PERSPECTIVES, NEWS & EVENTS

News

12 January 2017

Reed Smith Announces 2017 Partner Promotions

Events

July 2016

Allegheny County Bar Association Bench Bar Conference

When Bankruptcy Interrupts: What to Do When Bankruptcy Interferes with Your Lawsuits and Contractual Relationships

November 2015

December 2014

27th Annual Allegheny County Bar Association Bankruptcy Symposium
Managing the High Profile Case Part I: Ethical Concerns in Communicating with the Media

September 2014

19th Annual Pennsylvania Bankruptcy Institute
Avoidance Actions in Commercial Bankruptcy

December 2013

26th Annual Allegheny County Bar Association Bankruptcy Symposium
Stern Update

Blog Posts

21 May 2014 The Swap Report

District Court Affirms that Zero Purchase Price Repo Transactions May Be Considered "Repurchase Agreements" Under the Bankruptcy Code

5 May 2014 The Swap Report

Seventh Circuit Court of Appeals Reverses District Court, Follows Trend of Applying Bankruptcy Code Safe Harbors Literally and Expansively

28 March 2014 The Swap Report

MtGox Seeks Protection Under Chapter 15 of the Bankruptcy Code

14 January 2014 The Swap Report

Bankruptcy Code "Safe Harbor" Provisions Do Not Protect Contractual Right to Triangular Setoff

CREDENTIALS

Education

- Duquesne University School of Law, 2009, J.D., summa cum laude, Research Editor, *Duquesne Law Review*; National Environmental Law Moot Court Team
- University of Delaware, 2006, B.A., English, minor History, cum laude

Professional Admissions & Qualifications

- Pennsylvania

Court Admissions

- U.S. Bankruptcy Court - Western District of Pennsylvania

- U.S. District Court - Western District of Pennsylvania

- All State Courts - Pennsylvania

Professional Affiliations

- The Judith K. Fitzgerald Bankruptcy American Inn of Court (President)
- Allegheny County Bar Association, Bankruptcy and Commercial Law Section (Secretary)
- Turnaround Management Association, Pittsburgh Chapter (Board Member)
- American Bankruptcy Institute

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Nancy L. Savitt

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Nancy has extensive experience in prosecuting and defending complex commercial litigation, both in private practice and during her six years as an Assistant United States Attorney (Civil Division) in the Southern District of New York. Nancy handles in-depth legal and factual analysis and research, including brief writing at all court levels, strategizing, supervising and practical participation in cases involving fraud, breach of contract, cross-border disputes, intellectual property, and other issues.

Nancy serves as a volunteer mediator in the SDNY alternative dispute resolution program. She also has handled children's internet privacy issues, and is the author of the chapter on the Children's Online Privacy Protection Act (COPPA) in Proskauer on Privacy.

CAPABILITIES

Litigation & Dispute Resolution

Business & Commercial Disputes

CREDENTIALS

Education

- New York University School of Law, 1984, J.D., Order of the Coif
- State University of New York, Binghamton, 1981, B.A., English & History, with honors

Professional Admissions & Qualifications

- New York

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Joseph B. Teig

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New York

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Joe is a Senior Associate in the Complex Litigation Group in Reed Smith's New York Office. Joe is a seasoned litigator who most frequently represents financial institutions, pharmaceutical companies, and health insurers, in disputes involving mortgages, licensing, intellectual property, breach of contract, as well as other commercial disputes, in both state and federal court, on appeal, and in arbitration proceedings. Joe also assists clients in avoiding lawsuits, through risk assessment analysis and pre-litigation negotiations.

Before becoming an attorney, Joe performed in theaters, concert halls and nightclubs, and founded and managed a professional music recording studio.

CAPABILITIES

Litigation & Dispute Resolution

Life Sciences Product Liability

Shipping

Music

Business & Commercial Disputes

Entertainment & Media

Financial Services Disputes

Health Care

Managed Care

EXPERIENCE

Trial and Appellate counsel for major financial institutions in hundreds of residential mortgage litigations

Advises multiple pharmaceutical companies in disputes involving licensing and royalty claims, breach of contract, and intellectual property rights.

Successfully defended a global pharmaceutical company in a AAA arbitration involving royalty claims and geographic scope of license

Successfully represented an emerging biopharma company in a AAA arbitration involving the breach of a license agreement

MULTIMEDIA, PERSPECTIVES, NEWS & EVENTS

News

13 September 2018

27 Reed Smith Attorneys Named New York Super Lawyers or Rising Stars

20 September 2017

16 Reed Smith Attorneys Named 2017 New York Metro Super Lawyers

21 September 2016

19 Reed Smith Attorneys Named 2016 New York Metro Super Lawyers

16 September 2015

17 Reed Smith Lawyers Named New York Metro Super Lawyers; Twelve Selected As Rising Stars

23 September 2014

27 Reed Smith Lawyers in New York Recognized by *Super Lawyers*

AWARDS & RECOGNITION

- New York *Super Lawyers* - Recognized in 2014 - 2017 as a “Rising Star” in the practice of Business Litigation

CREDENTIALS

Education

- Fordham University School of Law, 2007, J.D., magna cum laude, *Fordham Law Review* (2004-2007); Order of the Coif
- Yale College, 1981, B.A., Economics and Political Science

Professional Admissions & Qualifications

- New York

Court Admissions

- U.S. District Court - Eastern District of New York
- U.S. District Court - Southern District of New York
- All State Courts - New York
- U.S. District Court - Western District of New York

Professional Affiliations

- Trustee of the Yale Whiffenpoof Alumni, Inc.
- Member of the advisory board of the Kaufman Music Center, a non-profit music education and performance organization in New York City

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- University of Michigan, 2013, B.A.

Professional Admissions & Qualifications

- New York

Court Admissions

- U.S. District Court - Southern District of New York
- U.S. District Court - Eastern District of New York

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Melissa is an associate in the New York office and is a member of the firm's Complex Litigation Group. Her practice concentrates on complex commercial disputes and product liability litigation. Melissa has experience representing clients in commercial matters, including contract disputes and business torts as well as defending pharmaceutical and medical device manufacturers in mass tort and multi-district litigations as well as single plaintiff cases.

Melissa's civil litigation experience is comprehensive. She has experience in handling various aspects of litigation at all stages of proceedings in state and federal courts. Her experience includes drafting pleadings and motions filed in both state and federal courts, taking depositions, managing all aspects of discovery, and preparing strategy and risk assessment memoranda.

Melissa is a member of the Associates Committee for the New York office.

CAPABILITIES

Business & Commercial Disputes

Litigation & Dispute Resolution

CREDENTIALS

Education

- St. John's University School of Law, 2016, J.D., cum laude, Associate Managing Editor, *St. John's Law Review*
- Pennsylvania State University, 2011, B.A.

Professional Admissions & Qualifications

- New York
- New Jersey

Court Admissions

- U.S. District Court - District of New Jersey
- U.S. District Court - Eastern District of New York
- U.S. District Court - Southern District of New York
- All State Courts - New Jersey
- All State Courts - New York

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Jim is a partner working out of the Pittsburgh and Los Angeles offices, who has specialized in appellate law for more than 35 years. He is certified as a specialist in the area of Appellate Law by the State Bar of California Board of Legal Specialization. Jim is a fellow and former president of the American Academy of Appellate Lawyers and is a member and former president of the California Academy of Appellate Lawyers. He is a founding member of the Third Circuit Bar Association and served as its second president. He also is a member of the Executive Committee of the Los Angeles County Bar Association Section on Appellate Courts and served as its chair. He served for three years on the California State Bar Committee on Appellate Courts and is the former vice-chair of the Federal Bar Association's Appellate Law and Practice Committee. Jim has been selected for inclusion in *The Best Lawyers in America* in Appellate Practice (2006 to present) and the Pittsburgh Lawyer of the Year for Appellate Practice (2013, 2017), Pennsylvania Lawyer of the Year in Appellate Practice (2017 as one of Pennsylvania's and Southern California's Super Lawyers in Appellate Law, a Benchmark Appellate Star in Pennsylvania, an American Lawyer Media Southern California Top Rated Lawyer in Appellate Law, and for admission into the American Law Institute. Additionally, Jim has an AV Preeminent rating from *Martindale-Hubbell*, and is recognized by American Registry as one of America's Most Honored Professionals.

Appellate Experience

Jim has briefed and handled cases in the United States Supreme Court, the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuit Courts of Appeals, the Federal Circuit, the Court of Claims, the California Supreme Court, the California Courts of Appeal, the Washington Supreme Court, the Arizona Appellate and Supreme Courts, the Delaware Supreme Court, the Nevada Supreme Court, the Ohio

Appellate and Supreme Courts, the Pennsylvania Appellate and Supreme Courts, the Texas Appellate and Supreme Courts, the Massachusetts Supreme Court, and the Illinois, Michigan, Minnesota, New York and New Jersey Appellate Courts.

Areas of Substantive Expertise and Consultation

Jim's expertise spans a wide range of substantive areas including unfair competition, insurance recovery, coverage and bad faith, financial services, intellectual property, products liability, pharmaceutical and medical devices, and class actions. He has dealt with many specialized issues in each of these areas, including those involving preemption (federal and state), expert witnesses (federal and state) and consumer fraud (federal and state). In addition to briefing and arguing appeals, Jim regularly consults with trial lawyers on substantive and procedural issues in ongoing cases to help shape trial strategies and make the best record possible for an eventual appeal. These trial consultations also include briefing and argument, and the preparation of post-trial motions, writs, or interlocutory appeals as needed.

Representative Writing and Teaching

Jim is a frequent author and consultant for California Continuing Education of the Bar (CEB) on a variety of subjects involving civil litigation and civil appellate practice and received its "Spirit of CEB" Award in 2007. With Colin Wrabley, he received the Burton Award for Distinguished Legal Writing for his 2014 article "Using Privately Provided Out-of-Court Relief to Defeat Class Certification." He is the co-author of California's leading text on experts and a contributing author in texts on civil appellate practice. He has participated in multiple programs dealing with handling civil appeals, record protection for appeal, expert witnesses, and complex litigation. He is a co-editor and chapter co-author of PBI's *Third Circuit Appellate Practice Guide* and the Ninth Circuit editor and chapter author for the ABA's national compendium on *Superseding and Staying Judgments*. The following is a list of books to which Jim has contributed:

- Co-editor and contributor to the Practice Guide for the U.S. Court of Appeals for the Third Circuit
- Co-editor and chapter author of Third Circuit Appellate Practices Manual (PBI Press 2007) (Second Edition 2010) (Third Edition 2016)
- Ninth Circuit editor of Superseding and Staying Judgments, national compendium (ABA 2007)
- Co-author of California Expert Witness Guide (CEB)
- Contributing author of Civil Appellate Practice (CEB 3d ed.)
- Contributing author of California Civil Writs (CEB 3d ed.)
- Contributing author of Civil Discovery Practice (CEB)

- Contributing author of California Complex Litigation Manual (Parker & Sons)
- Contributing author of A Litigator's Guide to Effective Use of ADR in California (CEB)
- Consultant on California Practice Guide on Insurance Litigation (Rutter Group)

CAPABILITIES

Appellate

Insurance Recovery

Litigation & Dispute Resolution

Financial Services Disputes

Product Liability & Mass Torts

Life Sciences Product Liability

Complex Resolution Strategy

Business & Commercial Disputes

Class Action and Multidistrict Litigation

Health Care

Life Sciences

Trials

EXPERIENCE

Supreme Court

Benisek, et al. v. Lamone, S.Ct. No. 17-333 (2018). Amicus brief for Governors Lawrence Hogan, Arnold Schwarzenegger, Gray Davis and John Kasich supporting First Amendment challenge to partisan gerrymandering in drawing legislative districts.

Donald J. Trump, et al. v. International Refugee Assistance Project, et al. S.Ct. Nos. 16-1436, 16-1540 (2017).
Amicus brief for U.S. Committee for Refugees and Immigrants opposing chief executive's reduction of
refugee cap and temporary ban on refugee admissions.

Milbauer v. United States, S.Ct. No. 16-236 (2016). Amicus brief for Antonin Scalia Law School Mason Veterans and Servicemembers Legal Clinic and Baylor Law School Veterans' Assistance Clinic supporting certiorari petition on veterans' ability to bring malpractice claims under the FTCA.

Universal Health Services, Inc. v. United States & Commonwealth of Massachusetts ex rel. Julio Escobar, et al., S.Ct. No. 15-7 (2016). Amicus brief for National Association of Criminal Defense Lawyers supporting

State Farm Fire and Casualty Co. v. United States, S.Ct. No. 15-513 (2015). Amicus brief for National Association of Criminal Defense Lawyers supporting certiorari petition to impose heightened and specific burden of proof for corporate scienter under FCA.

Campbell-Ewald Co. v. Gomez, S.Ct. No. 14-857 (2015). Amicus brief for TransUnion supporting mootness principles invoked by Rule 68 settlement offers in class actions.

B&B Hardware, Inc. v. Hargis Industries, Inc., S.Ct. No. 13-352 (2015). Assisted in responding to certiorari petition, merits briefing, and argument in case defining legal standard for preclusive effect of TTAB proceedings.

United States v. Wong, S.Ct. No. 13-1074 (2014). Amicus brief for Clinic for Legal Assistance to Servicemembers and Veterans on application of equitable tolling to tort lawsuits under the FTCA.

United States v. June, S.Ct. No. 13-1075 (2014). Amicus brief for Clinic for Legal Assistance to Servicemembers and Veterans on application of equitable tolling to administrative claims filed under the FTCA.

Highmark Inc. v. Allcare Health Management System, Inc., S. Ct. , No. 12-1163 (2014). Assisted in filing of certiorari petition, merits briefing and argument in case defining legal standard for exceptional case determinations for recovery of attorneys' fees.

Limelight Networks, Inc. v. Akamai Technologies, Inc., S.Ct. , No. 12-786 (2014). Amicus brief for American Bar Association on joint patent infringement.

Federal Aviation Administration v. Cooper, 132 S. Ct. 1441 (2012). Assisted with opposition to certiorari petition merits briefing, and argument in case dealing with recovery of damages under Privacy Act.

Kurns v. Railroad Friction Products, 132 S.Ct. 1261 (2012). Assisted with certiorari opposition, merits briefing and argument in upholding preemption of product defect and lawsuits against railroad parts manufacturer.

Matrixx v. Siracusano, 131 S.Ct. 1309 (2011). Amicus brief on section 10b-5 disclosure requirements for drug adverse event reports.

Sorrell v. IMS Health Inc., 131 S.Ct. 2653 (2011). Amicus brief for Louis Sullivan, M.D., supporting availability of prescribing information for improving healthcare effectiveness.

Textron Inc. and Subsidiaries v. USA, No. 09-750 (U.S. Sup. Ct. 2010). Amicus brief supporting certiorari petition on scope of the work product privilege.

Caperton v. A.T. Massey Coal Co., 129 S.Ct. 2252 (2009). Assisted with preparation of certiorari petition and merits briefs in case mandating recusal of judge on due process grounds.

United States v. Atlantic Research Corp., 551 U.S. 128 (2007). Amicus brief for reorganized company on scope of CERCLA cost recovery actions.

Olmo v. Davol, Inc., No. 17-11784 (11th Cir. 2018). Affirming summary judgment for surgical mesh manufacturer on duty to warn and independent knowledge of treating physician.

U.S. Court of Appeals - Fifth Circuit

Young v. Merrill Lynch & Co., 658 F.3d 436 (5th Cir. 2011). Obtained reversal and judgment providing that financial services firm did not breach terms of employment stock option agreement.

U.S. Court of Appeals - District of Columbia

Peoples' Mojahedin Organization of Iran v. United States, 613 F.3d 220 (D.C. Cir. 2010). Amicus brief dealing with level of due process in Secretary of State's review process preceding FTO designation.

U.S. Court of Appeals - Second Circuit

Ladjevardian v. Republic of Argentina, No. 16-1958-cv (2d Cir. 2016). Affirming order in favor of settlement trustee denying turnover of bond proceeds due under settlement agreement.

Dussault v. Republic of Argentina, No. 14-4235-cv (2d Cir. 2015). Affirming order in favor of intervenor-trustee in turnover action over funds held by trustee.

Irving Picard, Trustee for the Liquidation of Bearnard L. Madoff Investment Securities LLC v. Eric T. Schneiderman, et al., No. 13-1785 (2d Cir. 2014). Affirming dismissal of trustee's claims for declaratory and injunctive relief to block settlement of lawsuits.

NML Capital v. Republic of Argentina, 2013 WL 4487563 (2d Cir. 2013). Representing trustee in international bond dispute obtaining relief from injunctive order.

Bank of New York Trust Company v. Franklin Advisers, Nos. 12-0168, 12-0169, 12-0878, 12-0880 (2d Cir. 2013). Obtained partial reversal of fee award in favor of investment manager in shareholder dispute.

American Int'l Group, Inc., et al. v. Bank of America Corporation, et al., No. 12-1640-cv (2d Cir. 2013). Supported briefing and oral argument in seminal opinion defining federal jurisdiction for banking activity under Edge Act.

Faiveley Transport USA, Inc. v. Wabtec Corp., No. 11-3518-cv (2d Cir. 2013). Obtained partial reversal of damage award in trade secret action and affirmance of dismissal of punitive damage claim.

Lidle v. Cirrus Design Corporation, App. No. 11-2782-cv (2d Cir. 2012). Affirming defense verdict in complex airplane design defect case.

Astra Media Group v. Clear Channel Taxi Media, App. No. 10-0261-cv (2d Cir. 2011). Upholding summary dismissal on antitrust predatory pricing claim.

Faiveley Transport Malmo AB v. Wabtec Corp., 559 F.3d 110 (2d Cir. 2009). Obtained reversal of preliminary injunction relating to alleged disclosure of trade secrets.

Wabtec Corporation v. Faiveley Transport, 2008 WL 1914249 (2d Cir. 2008). Represented licensee in jurisdictional dispute over arbitrability of action for injunctive relief pending arbitration.

U.S. Court of Appeals - Third Circuit

Tatis v. Allied Interstate, LLC, No. 16-4022 (3d Cir. 2018). Resolution under FDCPA of whether collection letter with settlement offer for time-barred debt is deceptive or misleading.

Blackledge v. Blackledge, No. 16-3667 (3d Cir. 2017) (Pro bono). Precedent setting case under Hague Convention on standards governing shared intent and habitual residence for a child.

James Hughes, et al. v. United Parcel Service, Inc., No. 15-1690 (3d Cir. 2016). Obtained affirmance of order dismissing breach of contract and fair representation lawsuit and denial of leave to amend on Section 301 preemption and futility grounds.

In re: Pittsburgh Corning Corp., No. 14-4329 (3d Cir. 2016). Led merits briefing supporting affirmance of orders approving bankruptcy plan confirmation and claim resolution trust. Settled on appeal.

In re: Pittsburgh Corning Corp., No. 15-2954 (3d Cir. 2016). Supported merits briefing and argument approach for affirmance of order denying attempt to vacate bankruptcy plan confirmation orders under Rule 60. Settled on appeal.

United States Fire Ins. Co. v. Kelman Bottles, No. 12-2270 (3d Cir. 2013). Obtained reversal of adverse coverage judgment for the benefit of insured glass company.

Miller v. Mellon Long Term Disability Plan, No. 11-3833 (3d Cir. 2012). Affirming summary judgment finding no liability for disability benefits under ERISA.

Joseph v. Hess Oil Virgin Islands Corp., No. 11-8026 (3d Cir. 2011). Amicus brief for Third Circuit Bar Association on standards involving extension of time for briefing.

Azur v. Chase Bank, USA, 601 F.3d 212 (3d Cir. 2010). Upholding judgment against credit card holder on attempt to recover under federal law for fraudulent use of credit card.

The Abi Jaoudi & Azar Trading Corp. v. Cigna 2010 WL 3279173 (3d Cir. 2010). Obtained reversal to permit application of immunity in FSIA case involving Liberian Commissioner of Insurance.

Grider v. Keystone Health Plan Cent., Inc., 580 F.3d 119 (3d Cir. 2009). Obtained reversal of discovery sanction award in complex class action litigation.

Grider v. Keystone Health Plan, 500 F.3d 322 (3d Cir. 2007). Opinion granting stay of district court antitrust action based on settlement in multi-district litigation.

In re Mintze, 434 F.3d 222 (3d Cir. 2006). Obtained reversal of district and bankruptcy court decisions and compelling arbitration of TILA claim asserted during bankruptcy.

Santiago v. GMAC Mortgage Group, Inc., 417 F.3d 384 (3d Cir. 2005). Represented financing company on appeal of lawfulness of credit changes under federal lending statutes.

U.S. Court of Appeals - Fourth Circuit

Carson v. Manor Care, No. 16-1035 (4th Cir. 2016). Affirming first-to-file dismissal on federal claims in FCA whistle-blower claims alleging over-billing for therapy services.

United States ex rel. Rostholder v. Omnicare Incorporated, No. 12-2431 (4th Cir. 2014). Affirming summary judgment on FCA whistleblower claims involving packaging of allegedly adulterated pharmaceuticals.

McLeod v. PB Investment Corp, 2012 WL 3105077 (4th Cir. 2012). Upholding dismissal of multiple claimants seeking damages under Maryland Commercial Code and HOEPA.

Moffit v. Residential Funding Company, 2010 WL 1782435 (4th Cir. 2010). Upholding denial of remand under CAFA based on plaintiff's conduct conferring jurisdiction on federal court.

Davis Vision, Inc. v. Maryland Optometric Association, 187 Fed. App. 299, 2006 WL 1791389 (4th Cir. 2006). Affirming order defining scope of arbitration clause affecting non-signatories.

U.S. Court of Appeals - Sixth Circuit

William Eastham, et al. v. Chesapeake Appalachia, L.L.C., No. 2:12-cv-00615 (6th Cir. 2014). Affirmance of summary judgment of construction of oil and gas lease option to extend drilling agreement.

U.S. Court of Appeals - Seventh Circuit

Thao v. Midland National Life Ins. Co., Nos. 13-1272 & 13-2366 (7th Cir. 2013). Upholding summary judgment in class action disputing construction of annuity contract relating to calculation of fees and costs.

Graczyk v. West Publishing Co., 660 F.3d 275 (7th Cir. 2011). Obtained affirmance of judgment under a Driver's Privacy Protection Act for publishing company's resale of DMV information.

Berquist v. Mann Bracken LLP, No. 09-8046 (7th Cir. 2010). Obtained summary reversal of order granting remand of CAFA class action on Rooker-Feldman grounds.

U.S. Court of Appeals - Eighth Circuit

United States ex rel. Ambrosecchia v. Paddock Laboratories, No. 16-1506 (8th Cir.2017). Upholding dismissal of FCA whistleblower claims involving allegedly misbranded pharmaceuticals.

Murr v. Midland National Life Ins. Co., No. 13-2045 (8th Cir. 2014). Affirming summary judgment in class action disputing construction of annuity contract on interest adjustment on surrender.

Ridenour v. Boehringer Ingelheim Pharmaceuticals, et al., 679 F. 3d 1062 (8th Cir. 2012). Upholding running judgment on statute of limitations grounds against tort claims for marketing and selling pharmaceuticals.

Morrison Enterprises, LLC v. City of Hastings, 2011 WL 1237526 (8th Cir. 2011). Affirming summary judgment on exclusivity of CERCLA §113(f) for cost recovery claim in containment clean-up.

Glorvigen v. Cirrus Design Corp., 2009 WL 2957298 (8th Cir. 2009). Case establishing duties of flight service specialists under Federal Tort Claims Act.

Kutten v. Bank of America, N.A., 530 F. 3d 669 (8th Cir. 2008). Obtained affirmance of application of SLUSA preemption to class action based on trust conversion.

Siepel v. Bank of America, N.A., 526 F.3d 6112 (8th Cir. 2008). Obtained affirmance of application of SLUSA preemption to class action based on trust conversion.

In re St. Jude Medical, Inc., 522 F.3d 836 (8th Cir. 2008). Obtained reversal of certification of nationwide consumer fraud class based on individualized fact issues raised by defendant's evidence.

In re St. Jude Medical, Inc., 425 F. 3d 1116 (8th Cir. 2005). Obtained reversal of district court ruling certifying nationwide consumer product and medical monitoring class based on incomplete conflict of laws analysis and individualized fact issues.

Phipps v. F.D.I.C., 417 F.3d 1006 (8th Cir. 2005). Upheld dismissal of state unfair lending practice claims on grounds of NBA preemption.

U.S. Court of Appeals - Ninth Circuit

State of Hawaii, et al. v. Trump, et al., No. 17-16426 (9th Cir. 2017). Amicus brief of U.S. Committee for Refugees and Immigrants supporting district court order finding refugee resettlement as a bona fide relationship with a foreign national.

Braddock v. Jolie, No. 13-55703 (9th Cir. 2017). Upholding district court judgment of non-infringement by movie over novel due to lack of substantial similarity.

Teleflex Medical Inc. v. National Union, No. 14-56366 (9th Cir. 2017). Affirming jury verdict in favor of insured for actual and punitive damages and attorneys' fees for bad faith refusal to settle.

Stanislaus Food Prod. Co. v. USS-Posco Indus., No. 13-15475 (9th Cir. 2015). Obtained affirmance of summary judgment for industry defendants on market allocation antitrust claims.

Eminence Investors, L.L.P. v. Bank of New York Mellon, No. 15-15237 (9th Cir. 2015). Panel decision establishing scope of securities exception to removal under CAFA.

Stengel v. Medtronic Inc., 704 F.3d 1224 (9th Cir. 2013). En banc decision setting standard for express and implied preemption for "parallel" state law claims involving medical devices.

Freeman Investments, LLP v. Pacific Life Ins. Co., 704 F.3d 1110 (9th Cir. 2013). Obtained partial affirmance applying SLUSA to dismiss unfair competition class action.

Secalt S.A. v. Wuzi Shenxi Corp., 2012 WL 373102 (9th Cir. 2012). Upholding grant of summary judgment and exceptional case finding and attorneys' fees in trade dress infringement case.

Stoody-Brosier v. Bank of America, 2009 WL 270393 (N.D. Cal. 2009), aff'd, 09-17112 (9th Cir. 2011). Obtained dismissal of class action under SLUSA in case involving trust conversion.

In re Wells Fargo Home Mortgage, 571 F.3d 933 (9th Cir. 2009). Amicus brief supporting employer in obtaining dismissal of class certification on behalf of home mortgage consultants.

Schwarzenegger v. Fred Martin Motor Co., 374 F. 3d 799 (9th Cir. 2004). Represented media figure in case analyzing minimum contacts jurisdictional issue in the context of appropriation of name and likeness.

Artichoke Joe's California Grand Casino v. Norton, 353 F. 3d 712 (9th Cir. 2003). Represented amici tribes in lawsuit involving regulation of Class III Indian gaming under tribal-state compacts.

Neal v. Board of Trustees of the California State Universities, 198 F. 3d 763 (9th Cir. 1999). Obtained reversal in Title IX case of preliminary injunction which prohibited university from restricting the number of roster spots available to men on wrestling team.

Nordstrom, Inc. v. Chubb & Son, Inc., 54 F. 3d 1424 (9th Cir. 1995). Represented insurer in D&O insurance case dealing with allocation of settlement costs between a corporation and its directors and officers.

Merchants Home Delivery Service v. Frank B. Hall, 50 F.3d 1486 (9th Cir. 1995). Seminal Ninth Circuit case dealing with RICO claims and McCarran-Ferguson preemption.

Waller v. Blue Cross of California, 32 F.3d 1337 (9th Cir. 1994). Represented insurer in ERISA case dealing with fiduciary duties on conversion of pension plan.

Rinehart v. Wedge, 943 F. 2d 1158 (9th Cir. 1991). Upholding grant of new trial to attorney in probate malpractice action.

Larson v. Dumke, 900 F.2d 1363 (9th Cir. 1990). Affirming right of minority shareholder to maintain derivative action.

Atchinson, Topeka and Santa Fe R. R. Co. v. Bd. of Equalization, 795 F. 2d 1442 (9th Cir. 1986), vac. stay and remanded, 828 F. 2d 9 (9th Cir. 1987). Represented railroad and obtained reversal to pursue merits of challenge to discriminatory tax valuation methods.

Barry v. Blue Cross, 805 F. 2d 866 (9th Cir. 1986). Affirming summary judgment for insurance carrier validating preferred provider medical coverage plans under antitrust laws.

Mercy-Peninsula Ambulance, Inc. v. San Mateo County, 791 F. 2d 755 (9th Cir. 1986). Upholding summary judgment for ambulance companies and hospitals on Sherman Act claims for establishment of exclusive contracts to provide ambulance services with paramedics.

U.S. Court of Appeals - Tenth Circuit

Bristow Endeavor Healthcare v. Blue Cross and Blue Shield Assoc., No. 16-5149 (10th Cir. 2017). Affirmance of summary judgment finding insufficient allegations of antitrust conspiracy and attempted monopoly involving providers and insurers.

Caplinger v. Medtronic, Inc., No. 13-6061 (10th Cir. 2015). Part of team representing device manufacturer and obtained affirmance of FDA preemption ruling for medical device manufacturer.

Cox v. ReconTrust Co., N.A., No. 10-4117 (10th Cir. 2013). Represented bank in interlocutory appeal regarding (1) federal jurisdiction and (2) a state court injunction that interfered with bank operations under the National Bank Act.

U.S. Court of Appeals - Federal Circuit

In re Unified Messaging Solutions LLC and Advanced Messaging Technologies Inc. Patent Litigation, No. 2014-1611, 2016-1065, 2016-2150, 2016-2212 (Fed. Cir. 2017). Affirming non-infringement and attorneys fees award for defendants on patents related to sending and receiving data over the internet.

SNF Holding Co., et al., v. BASF Corp., No. 2016-2565 (Fed. Cir. 2017). Affirming USPTO finding of lack of obviousness and claim construction for the term "removing" for patent related to polymer gel discharge.

White Knuckle Gaming, LLC v. Electronic Arts, Inc., No. 16-2286 (Fed. Cir. 2017). Affirmance of motion to dismiss on lack of patentability under Section 101 for software patent dealing with sport video game updates.

Kroy IP Holdings, LLC v. Safeway, Inc., No. 2015-1782 (Fed. Cir. 2015). Affirmance of summary judgment on lack of patentability under Section 101 and invalidity under Sections 102 and 103 for software patent dealing with coupon redemption program offered by supermarket chain.

Ericsson, Inc. v. D-Link Systems, Inc., No. 2013-1625 (Fed. Cir. 2014). Trial counsel for Wi-Fi router and laptop marketers sued on cell technology patents alleged to be essential to the Wi-Fi standard. Obtained reversal of patent infringement and RAND damages award due to lack of substantial evidence and erroneous jury instruction. Case administratively closed after finding by patent office that patents to be retried are invalid.

Juxtacom-Texas Software v. Tibco Software, No. 2013-1004, 1025 (Fed. Cir. 2013). Affirmance of summary judgment relying on Allen Engineering decision and failure to claim invention.

Calico Brand & Honson Marketing Group v. Ameritek Imports, No. 2008-1324, 1341 (Fed. Cir. 2013). Obtained reversal of adverse royalty award and affirmance of finding on lack of willful infringement.

Highmark Inc. v. Allcare Health Mgmt., 701 F. 3d 1351 (Fed. Cir. 2012). Opinions on denial of en banc review exposing conflict in standard of review of exceptional case determination.

Highmark Inc. v. Allcare Health Mgmt., 687 F. 3d 1300 (Fed. Cir. 2012). Partial affirmance of exceptional case finding after panel change in standard of review.

Aspex Eyewear, Inc. v. Altair Eyewear, Inc., No. 2012-1102 (Fed. Cir. 2012). Affirming judgment in favor of eyewear manufacturer on invalidity grounds based on obviousness in light of prior art.

Highmark, Inc. v. Allcare Health Management Systems, Inc., No. 2009 – 1065 (Fed. Cir. 2009). Obtained affirmance of summary judgment on non-infringement for hospital payment protocol.

Grantly Patent Holding v. Clear Channel (2007). Represented defendant in an appeal of a \$66 million jury verdict for patent infringement related to traffic-building and yield-management systems for radio systems.

Tyco Healthcare Group LP v. Medrad, Inc., 466 F. 3d 1047 (Fed. Cir. 2006). Obtained reversal of summary judgment of invalidity of a reissue patent based on alleged errors in the patent reissue process. The Federal Circuit held that the reissue statute permitted the correction of the defect in the reissue patent underlying the challenged reissue patent. The U.S. Supreme Court denied certiorari.

Phillips v. AWH Corp., 415 F. 3d 1303 (Fed. Cir. 2005). Appeared as amicus curiae for Medrad, Inc. in en banc proceeding determining patent claim construction principles.

U.S. District Court - District of Minnesota

Foster v. St. Jude Medical, Inc., 229 F.R.D. 599 (D. Minn. 2005). Class certification denied for nationwide consumer product and medical monitoring class involving medical device.

U.S. District Court - District of Western Tennessee

Bostick v. St. Jude Medical, Inc., 2004 WL 3313614 (W.D. Tenn. 2004). Class certification denied for nationwide consumer product and medical monitoring class involving medical device.

California Supreme Court

Fluor Corporation v. Superior Court, No. S205889 (2015). Amicus brief to assist corporation in case dealing with insured's assignment of right to coverage for pre-merger liabilities.

Clark v. Superior Court, 50 Cal. 4th 605 (2010). Amicus brief on behalf of annuity providers in case providing that restitution awards are not subject to trebling under C.C. Section 3345.

City of Hope v. Genentech, Inc., 43 Cal. 4th 375 (2008). Represented hospital in affirmance of \$300 million award of breach of contract damages.

Agua Caliente Band of Cahuilla Indians v. Superior Court, 40 Cal. 4th 239 (2006). Represented federally-recognized tribe in appeal dealing with the scope and application of tribal lawsuit immunity.

People v. Pena, 32 Cal. 4th 389 (2004). Amicus brief for California Academy of Appellate Lawyers supporting the importance of appellate oral argument.

Korea Supply Co. v. Lockheed Martin Corp., 29 Cal. 4th 1134 (2003). Amicus brief on behalf of manufacturers in case settling limitation on restitutionary recovery under "unfair business practices" statute; court limited recovery.

Lockheed v. Superior Court, 29 Cal. 4th 1134 (2003). Amicus Curiae brief for manufacturers in case rejecting class certification for medical monitoring in groundwater contamination case; court held certification was improper.

Stevenson v. Superior Court, 16 Cal. 4th 880 (1996). Amicus brief on behalf of California Employment Law Council analyzing whether age discrimination claims must be brought under California's FEHA statute, or

Vons Companies, Inc. v. Seabest Foods, Inc., 14 Cal. 4th 434 (1996). Holding that the California courts may exercise personal jurisdiction over a foreign business in a case that is substantially related to the business's franchise relationship with a California franchisor.

Carlin v. Upjohn, 13 Cal. 4th 1104 (1996). Amicus brief on behalf of the Pharmaceutical Research and Manufacturers of America (PhRMA) in a case concerning the liability standards that should govern allegations that pharmaceutical manufacturers failed to warn of risks of which they knew or should have known.

Macias v. State of California, 10 Cal. 4th 844 (1993). Amicus brief on behalf of the American Crop Protection Association on the scope of federal preemption under the Federal Insecticide, Fungicide and Rodenticide Act.

Stangvik v. Shiley Inc., 54 Cal. 3d 744 (1991). Amicus brief on standards for forum non conveniens dismissal/transfer and supporting public policies.

Union Pacific R. Co. v. State Board of Equalization, 49 Cal. 3d 138 (1989). Represented state-assessed property taxpayers in refund dispute over method of valuation of railroads.

Brown v. Superior Court, 44 Cal. 3d 1049 (1988). Landmark decision holding that strict product liability principles for public policy reasons do not apply to claims against prescription drug manufacturers).

Jolly v. Eli Lilly & Co., 44 Cal. 3d 1103 (1988). Landmark decision on the "discovery rule" that a lawsuit is time-barred where a plaintiff suspects wrongdoing but did not file suit within the one-year statute of limitations.

Murphy v. E.R. Squibb, 40 Cal. 3d 672 (1985). Represented amicus pharmaceutical companies in case settling limits on market share doctrine.

California Court of Appeals

McClain v. Sav-On Drugs, et al., B265011 & B265029 (2017). Affirming sustaining of demurrer on common law and statutory causes of action over failure to reimburse for sales tax refunds.

Tabares v. Equitrust Life Ins. Co., No. B254409 (2015). Obtained affirmance of summary judgment and class action dismissal of contract and UCL claims involving indexed annuities.

Phillips v. Bank of America, No. B251836 (2015). Panel decision establishing scope of NBA preemption for account debits applied to Coogan Trust Accounts.

Bagumyan v. Medtronic, 2010 WL 4009891 (2010). Upholding summary judgment on federal preemption grounds on defective design and manufacture claims against device maker.

Richtenburg v. Wells Fargo Bank, 2010 WL 3158620 (2010). Obtained affirmance of application of SLUSA preemption over state law claims attacking trust fund investments.

Hammermueller v. North American Company for Life Ins., Cal. Ct. of App. No. E01640 (2009). Obtained reversal of \$8 million verdict with directions to enter judgment for appellant.

Brown v. Wells Fargo Bank, 2008 DJ DAR 17491 (Nov. 25, 2008). Amicus brief on behalf of banking association dealing with alleged fraud in the execution of brokerage agreement and effect on contractual arbitration clause.

Wells Fargo Bank, N.A. v. Superior Court, 159 Cal. App. 4th 381 (2008). Obtained writ relief ordering sustaining of demurrer on application of SLUSA preemption to class action involving trust conversion.

Sea Foods Company Ltd. v. O.M. Foods Company, 150 Cal. App. 4th 769 (2007). Obtained reversal of \$3.6 million collection turnover order and dismissal for lack of personal jurisdiction.

Physicians Interindemnity Cooperative Corp., etc. v. Aguilar, Cal. Ct. App. No. B171655 (2005). Obtained reversal of \$8.0 million breach of fiduciary duty judgment following jury verdict against former trustees of physicians interindemnity trust and direction that judgment be entered in favor of clients.

Smith v. Wyeth (Cal. App. 2004). Upholding the dismissal of all of plaintiffs' personal injury claims brought against a pharmaceutical company on statute of limitations grounds.

In re Coordinated Latex Glove Litigation, 99 Cal. App. 4th 594 (2002). Upholding multi-case order limiting the use of manufacturing defect test for product defectiveness where products are made according to manufacturer's established design specifications and plaintiff offers no proof of deviation from those specifications.

Morson v. Medline, 90 Cal. App. 4th 775 (2001). Upholding multi-case order ruling that design defects requiring an application of scientific understanding cannot be proved using the "consumer expectations" test, but instead only can be proved through the risk/benefit test following appropriate expert testimony.

Van Ness v. Blue Cross of California, 87 Cal. App. 4th 364 (2001). Upholding summary judgment that insured was not entitled to additional payment for treatment administered by physician who was not a member of Blue Cross's Prudent Buyer network.

Hirt v. Pharmacia (Cal. App. 1999). Upholding summary judgment for pharmaceutical manufacturers based on lack of sufficiency in expert affidavit on cancer causation.

Filippo Industries, Inc. v. Sun Ins. Co., 74 Cal. App. 4th 1429 (1999). Obtained reversal of punitive damages award against underwriting agent on grounds agent could not be held liable for performance of duties arising under policy.

Maglica v. Maglica, 66 Cal. App. 4th 442 (1998). Obtained reversal of \$84 million breach of fiduciary duty and quantum meruit judgment.

Major Clients Agency v. Diemer, 67 Cal. App. 4th 1116 (1998). Affirming judgment of dismissal on demurrer and finding no right of indemnity against attorney where a party is not the intended beneficiary of the attorney's services.

State of California v. Pacific Indent. Co., 63 Cal. App. 4th 1535 (1998). Partial reversal of summary judgment, court holding that while insurer had duty to defend claim, state could not recover defense costs by applying multiplier to fees of staff attorneys or based on contingent fee agreement with outside counsel.

Passante v. McWilliam, 53 Cal. App. 4th 1240 (1997). Analyzing legal issues governing enforceability of contract between attorney and client.

Unetco Indus. Exch. v. Homestead Ins. Co., 57 Cal. App. 4th 1459 (1997). Represented insurer in case establishing, even where allegations of bad faith are present, parties must utilize appraisal procedure to determine amount of covered loss.

Boaz, et al. v. Boyle & Company, Inc., et al, 40 Cal.App.4th 700 (1995). Affirming the dismissal of personal injury claims brought against pharmaceutical manufacturers on grounds of forum non conveniens, even though the non-resident plaintiffs could not recover under any legal theory in their resident states.

Traxler v. Varady, 12 Cal. App. 4th 1321 (1993). Represented hospital in case affirming limitations on use of negligence per se doctrine.

Akins v. Sacramento Mun. Util. Dist., 8 Cal.Rptr.2d 785 (1992). Affirming summary judgment for utility in action brought by 200 plaintiffs alleging injuries arising out of discharge of radioactive waste by nuclear power plant.

Nalian Truck Lines v. Nakano Warehouse & Transp. Corp., 6 Cal. App. 4th 1256 (1992). Construing ethics rules involving contracts with former employees of corporation during litigation.

Scott v. Chevron U.S.A., 5 Cal. App. 4th 510 (1992). Represented landowner-company in case limiting property owner's duty of care for obstacles on property.

Osborn v. Irwin Memorial Blood Bank, 5 Cal.App.4th 234 (1992). Upholding judgment for hospital in AIDS transfusion case, finding no evidence of a breach of the standard of care

Coca Cola Bottling Co. v. Superior Court, 233 Cal. App. 3d 1273 (1991). Represented bottling company in case establishing limits on spoliation of evidence doctrine.

Union Pacific R.R. Co. v. Bd. of Equalization, 231 Cal. App. 3d 983 (1991). Successfully defended against state's appeal from judgment overturning state's assessment methods for railroad property.

Blain v. Doctor's Co., 222 Cal. App. 3d 1048 (1990). Affirming a demurrer in favor of a defense attorney who allegedly advised insured to commit perjury while giving a deposition in a malpractice action.

Massachusetts Supreme Court

Murphy v. Massachusetts Tpk. Auth., 462 Mass. 701, 971 N.E. 2d 231 (2012). Assisted in merits briefing on state constitutional law and Dormant Commerce Clause attack on lawfulness of MTA highway tolls on interstate turnpike.

Michigan Court of Appeals

Deming v. Filmdistrict Distribution, No. 509989 (Oakland Cir. Ct. 2013). Obtained affirmance of orders denying judicial disqualification and rejecting claims under MCPA for claims over film trailer for the movie Drive.

New York Court of Appeals

Hermann v. Cohn Reznick LLP, Index 653786/14 (App. Div., First Dept. 2017), Affirming dismissal of complaint against accounting firm for alleged mismanagement of accounts for actor and corporate defendant.

GE Oil & Gas Services v. Turbine Generation Services, et al., Index 652296/15 (App. Div. First Dept. 2017). Affirming judgment in favor of plaintiff on enforceability of note and guaranty and lack of oral agreement to form joint venture.

Ohio Supreme Court

Wilborn v. Bank One Corp., 906 N.E. 2d 396 (2009). Declaring Ohio public policy supports enforcement of a mortgage contract provision requiring a borrower to pay a lender's attorneys' fees incurred on reinstatement of mortgage after default.

Pennsylvania Supreme Court

League of Women Voters v. Commonwealth of PA, No. 159 MM 2017 (2018). Amicus brief supporting petition to invalidate legislative redistricting map under PA Constitution due to partisan gerrymandering.

Commonwealth of PA v. Burton, No. 9 WAP 2016 (2015). Affirming remand order in favor of incarcerated inmate for purposes of proving actual innocence using newly discovered evidence.

Valley Forge Towers Apartments, et al. v. Upper Merion Area School District et al., No. 49 MAP 2016 (2016). Amicus brief for Pennsylvania Retailers' Association explaining invalidity of school district assessment of Uniformity Clause.

Babcock & Wilcox Co. v. American Nuclear Insurance, No. 2 WAP 2014, 2015 WL 4430352 (2015). Amicus brief outlining and describing reasonable settlement standard adopted by PA Supreme Court.

Newton Square East, L.P. v. Township of Newton, 14 MAP 2013. Amicus brief supporting Pennsylvania Supreme Court's flexible construction for zoning requirements applicable to planned residential developments.

Beneficial Consumer Discount Company v. Vukman, 29 WAP 2012. Upholding state trial courts jurisdiction over foreclosure cases when notices issued to homeowners failed to include information about credit counseling and loan modification opportunities.

Salley v. Option One Mortg. Corp., 925 A.2d 115 (Pa. 2007). Upholding arbitration clause from unconscionability attack in residential lending contract.

Texas Court of Appeals

MULTIMEDIA, PERSPECTIVES, NEWS & EVENTS

Perspectives

24 August 2018 Law360

Incorporating Docs By Reference: New 9th Circ. Law Is Flawed

9 February 2017 Los Angeles Daily Journal

CAFA Conundrum: Diversity Is What Counts

22 April 2016 DRI-Certworthy

Judicial Factfinding on Appeal: Seeking Clarity in an Information Age

14 December 2015 Reed Smith Client Alerts

U.S. Supreme Court Agrees to Review the Validity of 'Implied Certification' Liability Under the False Claims Act

8 December 2015 Reed Smith Client Alerts

Appellate Scrutiny of Class Action Settlements

21 October 2015 DRI – For The Defense

Appellate Scrutiny of Class Action Settlements

22 September 2015 The United States Law Week, 84 U.S.L.W. 386

Do Rule 68 Offers of Judgment Moot Individual and Uncertified Class Claims? As Circuits Issue Flurry of Rulings, Supreme Court Is Poised to Decide

21 August 2015 Reed Smith Client Alerts

The California Supreme Court Issues Its Landmark Decision in Fluor

22 July 2015 Reed Smith Client Alerts

The Pennsylvania Supreme Court Issues Its Landmark Ruling in Babcock

18 February 2015 Los Angeles Daily Journal

Post-judgment tenders can be a trap for unwary creditors

5 December 2014 Los Angeles Daily Journal

A New Wrinkle in Appeal Analysis

7 October 2014 Reed Smith Client Alerts

October 2014 Los Angeles Lawyer 34

Untolled Limitations: The Fact-Intensive Nature of Cross-Jurisdictional Tolling Disputes Presents Courts With Significant Challenges to Balancing Equity and Efficiency

12 September 2014 Los Angeles Daily Journal

Law of the Case - A Case in Point

12 June 2014 Reed Smith Client Alerts

Oliner v. Kontrabecki: The 9th Circuit Reminds Parties of the Potential Risks of Filing Sensitive Documents Under Seal in Court

14 May 2014 ABA Section of Antitrust Law - State Enforcement Committee Newsletter

The Expanding Role of Private Lawyers in *Parens Patriae* Lawsuits

April 2014 Los Angeles Daily Journal, San Francisco Daily Journal

Sealing the Deal: Considerations for Sealing Court Records

26 February 2014 Reed Smith Client Alert

Federal Appeals Court Rejects False Claims Act Suit Based on Drug Packaging cGMP Violations

News

15 August 2018

Reed Smith attorneys recognized by *Best Lawyers in America*

8 June 2018

Reed Smith Earns 2018 Legal 500 USA Rankings in 40 Practice Areas

18 May 2018

48 Pennsylvania Lawyers Named Super or Rising Stars

3 May 2018

Reed Smith earns high rankings in Chambers USA 2018

30 January 2018

Nine Reed Smith Lawyers Named 2018 Southern California Super Lawyers

12 May 2017

35 Reed Smith Attorneys Named 2017 Pennsylvania Super Lawyers

20 January 2017

12 Reed Smith Attorneys Named 2017 Southern California Super Lawyers

15 August 2016

13 May 2016

41 Reed Smith Attorneys Named 2016 Pennsylvania Super Lawyers

22 April 2016

Reed Smith Completes Victory for Safeway in Federal Circuit

21 January 2016

Nine Reed Smith Attorneys Named 2016 Southern California Super Lawyers

24 August 2015

Reed Smith Achieves Strong Showing in *2016 Best Lawyers in America*

15 May 2015

Reed Smith Announces 43 Super Lawyers, 18 Rising Stars in Pennsylvania

9 March 2015

11 Reed Smith Attorneys Named 2015 Super Lawyers in So Cal

20 August 2014

Reed Smith Lawyers Earn 2015 “Lawyer of the Year” Accolades in 14 Practices Across Four Metro Areas Nationwide from Best Lawyers

10 June 2014

Reed Smith Appellate Partners Receive 2014 Burton Award for Legal Writing

27 May 2014

Reed Smith Announces 46 Super Lawyers, 19 Rising Stars in Pennsylvania

17 January 2014

Ten Reed Smith Lawyers Honored As 2014 Southern California Super Lawyers

13 January 2014

Reed Smith's James C. Martin Assumes Presidency of The American Academy of Appellate Lawyers

9 December 2013

The Recorder Presents - Litigation Department of the Year - Product Liability Finalist

Events

17 January 2019

2019-2020 Coal Industry Outlook: Top Three Hot Topics

August 2016

PBI

Federal Appellate Advocacy

April 2016

Osgoode Hall Law School's Symposium on Class Actions

Keeping Eye Out Across the Border and Abroad: Recent Developments in Class Actions

March 2016

Lorman

Advanced Strategies on Post-Trial Motions

July 2015

DRI, Class Action Seminar

Mediation of Class Cases

Blog Posts

24 September 2015 Financial Services Litigation Report

U.S. Supreme Court Poised to Rule on Mooting Effect of Rule 68 Offers of Judgment

5 June 2014 Financial Regulatory Report

Second Circuit Limits Judicial Review of Consent Decrees

AWARDS & RECOGNITION

- Selected as one of the 2018 Pennsylvania Super Lawyers

CREDENTIALS

Education

- Santa Clara University School of Law, 1978, J.D., summa cum laude, Editor-in-Chief of the *Santa Clara Law Review*
- Colorado College, 1974, B.A., History, Named Outstanding Senior majoring in History; Phi Beta Kappa; Pi Gamma Mu

Professional Admissions & Qualifications

- California
- Pennsylvania

Court Admissions

- U.S. Supreme Court
- U.S. Court of Claims
- U.S. District Court - Central District of California
- U.S. District Court - Eastern District of California
- U.S. District Court - Northern District of California
- U.S. District Court - District of Minnesota
- U.S. Court of Appeals - District of Columbia Circuit
- U.S. Court of Appeals - First Circuit
- U.S. Court of Appeals - Second Circuit
- U.S. Court of Appeals - Third Circuit
- U.S. Court of Appeals - Fourth Circuit
- U.S. Court of Appeals - Fifth Circuit
- U.S. Court of Appeals - Sixth Circuit
- U.S. Court of Appeals - Seventh Circuit
- U.S. Court of Appeals - Eighth Circuit
- U.S. Court of Appeals - Ninth Circuit
- U.S. Court of Appeals - Tenth Circuit
- U.S. Court of Appeals - Eleventh Circuit
- U.S. Court of Appeals - Federal Circuit

Professional Affiliations

- American Academy of Appellate Lawyers – Fellow; Director (2007 to 2015); Secretary (2009-2011); Treasurer (2012); Vice President, President-Elect (2013); President (2014); Immediate Past President (2015)

- American Law Institute – Member
- American Bar Association – Tort & Insurance Section; Appellate Judges Conference; Appellate Advocacy Committee
- American Council of Appellate Lawyers – Member
- National Center for State Courts Lawyers Committee
- National Foundation for Judicial Excellence - Program Committee
- California Academy of Appellate Lawyers – Member; President (2003-2004)
- Third Circuit Bar Association – President (2009-2010); Board of Governors (2007-2012)
- Federal Bar Association – Vice-Chair of the Appellate Law and Practice Committee
- Defense Research Institute (DRI) – Appellate Advocacy Committee; Lawyer's Professionalism and Ethics Committee
- Los Angeles County Bar Association – Trustee (2002-2004); Appellate Courts Section (1991-present); Chair (1999-2001); Judicial Evaluation and Nomination Committee (1996-2011); Litigation Section (1991-present); Amicus Committee (2004-present)
- Los Angeles County Bar Association Foundation – Director (2001-2010); Secretary (2004-2005); Vice-President/Treasurer (2005-2006); Senior Vice-President (2006-2007); President-Elect (2007-2008); President (2008-2009); Member of Grants Committee (2003-present); Chair of Grants Committee (2004); Chair of Audit Committee (2005); Chair of Finance Committee (2006-2007); Chair of Nominating Committee (2007-2008)
- State Bar of California – Litigation Section (1978-present); Appellate Courts Committee (1992-1994)



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Brian, an attorney in the firm's Appellate Group, has extensive experience in briefing and arguing appeals and class action matters in federal and state courts. He has argued more than forty appeals in cases involving a wide range of constitutional and statutory issues, including in cases arising under the First Amendment, anti-fraud statutes, the bankruptcy code, and environmental laws. Before joining Reed Smith in July 2014, Brian was an Assistant Solicitor General in the Office of the New York State Attorney General. His experience also includes several years at a major law firm in New York, where he focused on securities and class action litigation.

Brian completed clerkships with the Honorable Reena Raggi of the United States Court of Appeals for the Second Circuit, and with the Honorable Alvin K. Hellerstein of the United States District Court for the Southern District of New York. He is certified as a specialist in Appellate Law by the State Bar of California Board of Legal Specialization.

CAPABILITIES

Appellate

EXPERIENCE

United States Court of Appeals

Dominick & Dickerman v. Deutsche Oel & Gas AG, No. 17-3049 (2d Cir. 2018). Secured affirmance of summary judgment for defendant in connection with alleged breach of financial services agreement (argued).

ED Capital, LLC v. Bloomfield Investment Resources Corp., No. 18-1277 (2d Cir. 2018). Secured dismissal of investment manager's claims for breach of contract and abuse of process.

Rodman v. Safeway Inc., No. 15-17390 (9th Cir. 2017). Represented Safeway on appeal from \$42 million class action judgment in breach of contract action (argued).

Picard v. Fairfield Greenwich Ltd., 762 F.3d 199 (2d Cir. 2014). Defeated collateral attack on \$410 million settlement with hedge fund manager brought by trustee of the Madoff bankruptcy estate (argued).

Commack Self-Service Kosher Meats, Inc. v. Hooker, 680 F.3d 194 (2d Cir. 2012). Defeated challenge to New York's kosher labeling laws under the First Amendment's Free Exercise and Establishment Clauses (argued).

Washington v. Gonyea, 731 F.3d 143 (2d Cir. 2013). Secured partial dismissal of prisoner's claims under the First Amendment, Due Process Clause, and the Religious Land Use and Institutionalized Persons Act (argued).

New York v. Nuclear Regulatory Commission, 681 F.3d 471 (D.C. Cir. 2012). Represented multi-state coalition in successful challenge to federal agency's rulemaking determination concerning storage of nuclear waste.

Ward v. Polite, 667 F.3d 727 (6th Cir. 2012). Amicus brief on behalf of national counseling association in opposition to graduate counseling student's claim that dismissal for refusal counsel homosexual clients violated her First Amendment rights.

Lazarus v. Lynch, No. 14-71367 (9th Cir.). Obtained remand to the Board of Immigration Appeals for indigent lawful permanent resident facing deportation based on conviction for marijuana-related crime.

ONRC Action v. United States Bureau of Reclamation, No. 12-35831 (9th Cir.) Amicus brief on behalf of multi-state coalition in support of appellant environmental organization arguing that the EPA's Water Transfers Rule is invalid.

Adams v. Ellis, 536 F. App'x 144 (2d Cir. 2013). Defeated state employee's First Amendment retaliation claim and other employment claims (argued).

KM Enterprises, Inc. v. McDonald, 518 F. App'x 12 (2d Cir. 2013). Defeated subcontractor's claim that state agency failed to follow federal bidding laws in awarding contract for highway project (argued).

Dibbs v. Mazzairelli, 470 F. App'x 34 (2d Cir. 2012). Defeated First Amendment challenge to state statutes governing election of judges (argued).

Parkway Hosp. v. Shah, 460 F. App'x 21 (2d Cir. 2012). Defeated hospital's challenge to state agency's decision to revoke the hospital's operating certificate (argued).

Koncelik v. Savient Pharmaceuticals, Inc., 448 F. App'x 154 (2d Cir. 2012). Secured dismissal of securities fraud class action complaint based on pharmaceutical company's alleged omissions in reporting clinical trial data.

California

Khan v. Dunn-Edwards Corp., 19 Cal. App. 5th 804 (2018). Obtained affirmance of summary judgment in favor of defendant on claim brought under the Labor Code Private Attorneys General Act.

Baez v. California Public Employees' Retirement System, No. B280841 (2018). Secured affirmance of summary judgment on hedge fund manager's tortious interference with contract and equal protection claims.

Communities for a Better Environment v. Bay Area Air Quality Management District, 1 Cal. App. 5th 715 (2016). Secured dismissal on statute-of-limitations grounds for real-party-in-interest in connection with a claim that agency violated CEQA in approving an application to install and operate equipment for transferring oil from railcars to trucks (argued).

Grow Land and Water, LLC v. McCarthy Family Farms, Inc., No. F069959 (2016). Obtained reversal of \$78 million judgment on breach of contract and tortious interference with contract claims.

DCCCAI, Inc. v. Diversified Product Industries, Ltd., No. A143175 (2016). Prevailed on appeal for builder of elevated railway after successful action to enforce a settlement agreement against a subcontractor (argued).

Christiansen v. Gross, No. B256668 (2016). Secured affirmance of trial court's order granting clients' anti-SLAPP motion in malicious prosecution and fraud action (argued).

McCormick v. McCormick, No. A143855 (2017). Defeated challenge to probate court's orders directing trustee bank to distribute funds to trust beneficiary.

Fullerton Medical Group v. Sideman & Bancroft LLP, No. A140845 (2017). Secured affirmance of judgment in favor of law firm after a jury trial on a malpractice claim (argued).

Wilczak v. ReconTrust Company, N.A., No. H039546 (2016). Secured affirmance of order dismissing complaint against Bank of America and related entities in action for slander of title, fraud, and violation of the Truth In Lending Act (argued).

New York

Hudson Valley Federal Credit Union v. N.Y. State Dep't of Taxation & Finance, 20 N.Y.3d 1 (2012). Defeated Supremacy Clause challenge to New York's mortgage recording tax (argued).

Matter of Murphy v. New York State Division of Housing & Community Renewal, 21 N.Y.3d 649 (2013). Represented state agency in subsidized-housing related appeal (argued).

People v. Sprint Nextel Corp., 114 A.D.3d 622 (N.Y. App. Div. 1st Dep't 2014). Defeated challenge to validity of complaint seeking over \$400 million in damages based on alleged violations of New York's False Claims Act (argued).

Matter of Natural Resources Defense Council, Inc. v. N.Y. State Dep't of Environmental Conservation, 111 A.D.3d 737 (N.Y. App. Div. 2d Dep't 2013). Obtained reversal of trial court's order annulling a statewide general permit authorizing 513 municipalities to discharge stormwater (argued).

Matter of Prudential Insurance Co. of America v. Wynn, 105 A.D.3d 466 (N.Y. App. Div. 1st Dep't 2013), leave to appeal denied, 21 N.Y.3d 861 (2013). Defeated insurance company's petition for a refund of over \$8 million under retaliatory tax provisions of Insurance Law (argued).

Bransten v. State, 117 A.D.3d 455 (N.Y. App. Div. 1st Dep't 2014). Defended State against claim that modification to healthcare insurance benefits for state employees violated the judicial Compensation Clause (argued).

Holdman v. Office of Court Admin., 118 A.D.3d 447 (N.Y. App. Div. 1st Dep't 2014). Defeated former judge's claim that he was entitled to vested benefits based on the advice of agency employees (argued).

Wood v. State, 119 A.D.3d 672 (N.Y. App. Div. 2d Dep't 2014). Defeated wrongful death claim against the State based on a shooting involving an off-duty corrections officer (argued).

State v. Geoffrey P., 100 A.D.3d 911 (N.Y. App. Div. 2d Dep't 2012). Defeated constitutional and statutory challenges to court's determination that the respondent was a detained sex offender (argued).

United States Supreme Court

Gill v. Whitford, No. 16-1161 (U.S.S.C.). Amicus brief on behalf of California's Citizens Redistricting Commission and FairDistricts Now, Inc. in support of appellees.

State Farm Fire and Casualty Company v. United States ex rel. Rigsby, 137 S. Ct. 436 (2016). Amicus brief on behalf of the National Association of Criminal Defense Lawyers urging the Court to grant certiorari in a False Claims Act case.

American Tradition Partnership v. Bullock, 132 S. Ct. 2490 (2012). Amicus brief on behalf of twenty-two States and the District of Columbia opposing the petition for certiorari review of the Montana Supreme Court's decision upholding the State's ban on corporate expenditures for express political advocacy.

EPA v. Friends of the Everglades, 134 S. Ct. 421 (2013). Defeated EPA's petition for certiorari review of the jurisdiction of the courts of appeals to hear challenges to EPA's Water Transfers Rule.

District Attorney's Office v. Osborne, 557 U.S. 52 (2009). Amicus brief in support of defendant's claim that he had a constitutional right to obtain DNA evidence from the State of Alaska.

MULTIMEDIA, PERSPECTIVES, NEWS & EVENTS

Perspectives

24 August 2018 Law360

Incorporating Docs By Reference: New 9th Circ. Law Is Flawed

22 June 2016 Law360

Inside 9th Circ. Decision On Anti-SLAPP Appeals

Two Plaintiffs Walk Into Court...

8 August 2014 Law360

If It's Not About Trucking, It's Not Preempted

15 July 2014 Daily Journal

High Court Clears Up 'Enforcement Fees' Rules

News

8 January 2018

Reed Smith Announces 23 New Partners

Events

17 January 2019

Northern California MCLE Day 2019

25 January 2018

Reed Smith's 2018 Northern California MCLE Day

18 January 2018

Reed Smith's 2018 Los Angeles MCLE Day

January 2017

MCLE Day

Blog Posts

6 June 2018 Technology Law Dispatch

Should the President's tweets create a "public forum"?

2 March 2018 AdLaw By Request

District judge in the SDNY: Embedding links to third-party web content is copyright infringement

22 February 2018 Technology Law Dispatch

District judge in the SDNY: Embedding links to third-party web content is copyright infringement

CREDENTIALS

Education

- New York University School of Law, 2006, J.D., cum laude, NYU Law Review

- University of Iowa, 1998, B.A., Economics and Spanish

Professional Admissions & Qualifications

- California
- New York

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals - Ninth Circuit
- U.S. Court of Appeals - Second Circuit
- U.S. Court of Appeals - District of Columbia Circuit
- U.S. Court of Appeals - Sixth Circuit
- U.S. District Court - Northern District of California
- U.S. District Court - Central District of California
- U.S. District Court - Southern District of New York

Clerkships

- Honorable Reena Raggi, U.S. Court of Appeals - Second Circuit, 1 October 2007 to 1 October 2008
- Honorable Alvin K. Hellerstein, U.S. District Court - Southern District of New York, 1 October 2006 to 1 September 2007

Languages

- Spanish



M. Patrick Yingling

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Patrick is a senior associate in the firm's Appellate Group. His practice encompasses a range of substantive areas including financial services, medical devices, insurance recovery and bad faith, class actions, and the False Claims Act. He is experienced in matters before the Supreme Court of the United States and has successfully briefed and argued cases in appellate and trial courts across the country. The U.S. Court of Appeals for the Third Circuit has expressly noted Patrick's "excellent representation" and "excellent briefing and argument" in multiple opinions.

Prior to joining Reed Smith, he taught as a Visiting Lecturer at Moi University School of Law in Kenya, and clerked for Judge D. Michael Fisher on the U.S. Court of Appeals for the Third Circuit.

Patrick has developed an extensive pro bono practice with a focus on civil rights. He has represented indigent individuals and non-profit organizations in same-sex marriage cases, police excessive force controversies, international child abduction matters, asylum petitions, and death penalty cases. Notably, Patrick's pro bono efforts led to two landmark marriage equality results: the country's first common law same-sex marriage, and a same-sex marriage dating to 1990. In addition, Patrick has helped eight transgender individuals obtain name changes in Pennsylvania and Illinois.

Patrick has spoken at conferences and symposia throughout the country and abroad, and his writings have been published in the *Indiana Journal of Law and Social Equality*, *Dublin University Law Journal*, *Cleveland State Law Review*, *Duquesne Law Review*, *University of Baltimore Journal of International Law*, *U.S. Law Week*, *BNA*, *Jurist*, *Corporate Counsel*, *For The Defense*, and *The Legal Intelligencer*.

Patrick also serves on the Newsletter Committee of the Third Circuit Bar Association, which edits and publishes the quarterly newsletter "On Appeal."

CAPABILITIES

Appellate

EXPERIENCE

Supreme Court of the United States

Benisek v. Lamone, No.17-333 (S. Ct.). Represented Governors Larry Hogan, Arnold Schwarzenegger, Gray Davis, and John Kasich with an amicus brief on the necessity of judicial review to resolve gerrymandering disputes.

S.A.B. v. Sessions, No. 17-616 (S. Ct.). Counsel of record on petition for writ of certiorari regarding a lower court's practice of conducting and relying on extra-record factual research when deciding a petition for review in immigration cases.

Ethicon, Inc. v. Jo Huskey, No. 16-1399 (S. Ct.). Represented the Advanced Medical Technology Association with an amicus brief on why a medical device's FDA 510(k) clearance should not be excluded from evidence in a products liability case.

Milbauer v. United States, No. 16-236 (S. Ct.). Represented the Antonin Scalia Law School Veterans and Servicemembers Legal Clinic and the Baylor Law School Veterans' Assistance Clinic with an amicus brief on whether the Veterans Judicial Review Act bars federal courts from hearing VA medical negligence suits arising under the Federal Tort Claims Act.

Universal Health Services, Inc. v. United States and Commonwealth of Massachusetts ex. rel. Julio Escobar and Carmen Correa, 136 S. Ct. 1989 (2016). Represented the National Association of Criminal Defense Lawyers with an amicus brief on the invalidity of the implied certification theory of liability under the False Claims Act.

State Farm Fire and Casualty Co. v. United States ex rel. Cori Rigsby; Kerri Rigsby, No. 15-513 (S. Ct.). Represented the National Association of Criminal Defense Lawyers with an amicus brief in support of State Farm's petition for writ of certiorari on whether the False Claims Act's scienter requirement can be satisfied through a theory of corporate collective knowledge.

United States v. Wong, No. 13-1074, 135 S. Ct. 1625 (2015). Represented the Clinic for Legal Assistance to Servicemembers and Veterans with an amicus brief on the applicability of equitable tolling to tort lawsuits under the Federal Tort Claims Act.

United States v. June, No. 13-1075, 135 S. Ct. 1625 (2015). Represented the Clinic for Legal Assistance to Servicemembers and Veterans with an amicus brief on the applicability of equitable tolling to administrative claims filed under the Federal Tort Claims Act.

U.S. Court of Appeals for the Third Circuit

McKinney v. University of Pittsburgh, No. 17-3084 (3d Cir.). Representing university on appeal in case involving the scope of due process protections afforded to a tenured professor.

Blackledge v. Blackledge, 866 F.3d 169 (3d Cir. 2017). Represented parent petitioning for return of child under the Hague Convention on the Civil Aspects of International Child Abduction; argued case before a Third Circuit panel. The court stated in the opinion: “We express our gratitude to Appellant’s counsel for accepting our appointment of this matter and for their excellent briefing and argument in this case.”

Wisniewski v. Fisher, 857 F.3d 152 (3d Cir. 2017). Obtained reversal of dismissal of inmate’s First Amendment retaliation claims. Panel stated in the opinion “We express our sincere appreciation to counsel for the excellent representation of Wisniewski on appeal.”

Thompson v. Howard, 679 F. App’x 177 (3d Cir. 2017). Represented individual with a Fourth Amendment excessive force claim against a police officer who attempted deadly force on the individual; argued case before a Third Circuit panel.

Duquesne Light Holdings, Inc. v. Commissioner of Internal Revenue, 861 F.3d 396 (3d Cir. 2017). Assisted with briefing and research in representation of taxpayer in case involving consolidated returns and the statute of limitations.

Avaya Inc. v. Telecom Labs, Inc., et al., 838 F.3d 354 (3d Cir. 2016). Represented global managed services provider in cross-appeal involving antitrust claims.

Abdullah v. Bank of America, et al., 668 F. App’x 413 (Mem) (3d Cir. 2016). Secured summary affirmance of district court order dismissing complaint brought under the Pennsylvania Human Relations Act.

Evankavitch v. Green Tree Servicing, 793 F.3d 355 (3d Cir. 2015). Assisted with appellate briefing and research in case concerning interpretation of Fair Debt Collection Practices Act.

U.S. Court of Appeals for the Fourth Circuit

Apuzzi v. American Medical Systems, Inc., 699 F.App’x 284 (Mem) (4th Cir. 2017). Secured affirmance on appeal for medical device manufacturer following dismissal of plaintiff’s product liability claims.

U.S. ex rel. Carson v. Manor Care Inc., et al., 851 F.3d 293 (4th Cir. 2017). Secured affirmance on appeal for health care provider following dismissal of federal False Claims Act claims on jurisdictional grounds.

U.S. ex rel. Michaels v. Agape Senior Community, Inc., 848 F.3d 330 (4th Cir. 2017). Represented the American Health Care Association with amicus brief on use of sampling and extrapolation under the False Claims Act.

Henson v. Santander Consumer USA, Inc., 817 F.3d 131 (4th Cir. 2016). Assisted with briefing and research in obtaining affirmance of dismissal of putative class action.

Harris v. Norfolk Southern Railway Co., 784 F.3d 954 (4th Cir. 2015). Represented individual who was injured in train accident on cross-appeal following summary judgment.

U.S. Court of Appeals for the Fifth Circuit

Barrios-Cantarero v. Holder, 712 F.3d 1019 (5th Cir. 2014). Assisted with briefing in support of petition for review of a Board of Immigration Appeals decision refusing to re-open removal proceedings; subsequently obtained \$22,655.70 award of fees and costs from the government under the Equal Access to Justice Act.

U.S. Court of Appeals for the Sixth Circuit

U.S., TN ex rel. Armes v. Garmon, et al., --- F. App'x ---, 2017 WL 6209641 (6th Cir. Dec. 8, 2017). Assisted with briefing in representation of health care provider in False Claims Act case involving qui tam relator's appeal following dismissal on jurisdictional grounds.

U.S. Court of Appeals for the Seventh Circuit

Robinson et al. v. Davol, Inc. et al., No. 17-2068 (7th Cir.). Representing medical device company on appeal following favorable summary judgment in products liability action.

U.S. Court of Appeals for the Eighth Circuit

U.S. ex rel. Ambrosecchia v. Paddock Laboratories, LLC, et al., 855 F.3d 949 (8th Cir. 2017). Secured affirmance for healthcare supplier in False Claims Act case involving qui tam relator's appeal following dismissal on public disclosure bar grounds.

U.S. Court of Appeals for the Ninth Circuit

Thompson, et al. v. Hebdon et al., No. 17-35019 (9th Cir.). Represented the Brennan Center for Justice at NYU School of Law with amicus brief addressing the constitutionality of Alaska's campaign contribution limits.

Lair v. Motl, 873 F.3d 1170 (9th Cir. 2017). Represented the Brennan Center for Justice at NYU School of Law with amicus brief addressing the constitutionality of Montana's campaign contribution limits.

Fraser v. Wal-Mart Stores, Inc., No. 15-80003 (9th Cir.). Assisted with briefing in Rule 23(f) petition for permission to appeal order granting class certification of claims under California's Song-Beverly Act.

U.S. Court of Appeals for the Eleventh Circuit

Olmo v. Davol, Inc. et al., No. 17-11784 (11th Cir.). Representing medical device company on appeal following favorable summary judgment in products liability action.

U.S. Court of Appeals for the D.C. Circuit

Columbia Saint Mary's Hospital v. Burwell, 602 F. App'x 536 (Mem) (D.C. Cir. 2015). Represented hospital challenging a federal agency's interpretation of the Medicare Act's disproportionate share hospital (DSH) adjustment provisions.

U.S. Court of Appeals for the Federal Circuit

U.S. Bankruptcy Appellate Panel of the Ninth Circuit

Yee v. Ditech Financial LLC, No. 16-1237 (9th Cir. B.A.P.). Assisted with briefing in securing affirmance for financial services provider on appeal of dismissal of adversary action related to bankruptcy proceedings.

Board of Immigration Appeals

In the Matter of Amicus Invitation, No. 16-06-09 (BIA). Represented the National Immigrant Justice Center and the American Immigration Lawyers Association with an amicus brief on the meaning of “minor” for purposes of applying an exception to the Immigration and Nationality Act’s one-year filing deadline for asylum.

U.S. District and Bankruptcy Courts

Roberts v. Berryhill, No. 2:17-cv-02443 (E.D. Pa.). Representing widower who is being denied spousal benefits on the basis of his common law same-sex marriage in equal protection action against the Social Security Administration.

Herd v. Airbus SAS et al., No. 2:17-cv-05001, 2017 WL 6504162 (C.D. Cal. 2017). Assisted with briefing in obtaining dismissal of product claims on forum non conveniens grounds for Rolls-Royce PLC.

Pinks v. M&T Bank Corp., No. 1:13-cv-1730 (S.D.N.Y.). Assisted with briefing to obtain denial of motion for certification of multi-state class involving claims under different states’ commercial codes.

Clark v. Ditech Financial LLC, No. 17-50147 (Bankr. S.D. Ind.). Represented financial services provider in adversary proceeding involving claims under the Bankruptcy Code.

Blakes v. Dyncorp Int’l LLC, No. 17-00001, 2017 WL 4706891 (M.D. La. Oct. 19, 2017). Assisted with briefing in obtaining dismissal on personal jurisdiction grounds.

U.S. ex rel. Ribik v. HCR ManorCare, Inc., No. 1:09-cv-00013, 2017 WL 3471426 (E.D. Va. Aug. 10, 2017). Assisted with briefing to secure dismissal of a relator’s remaining False Claims act claims following remand from Fourth Circuit.

Sarconi v. Ditech Financial, LLC, et al., No. 17-4279 (Bankr. E.D. Mich.). Obtained dismissal for financial services provider in action involving claims asserted under the Real Estate Settlement Procedures Act.

Abdullah v. Davids, et al., No. 2:16-cv-5715 (E.D. Pa.). Assisted with briefing in obtaining dismissal of suit with claims alleged to be based in provisions of the Pennsylvania Constitution; obtained Rule 11 permanent injunction barring plaintiff from filing further suits without prior leave of court.

to dismiss briefing on the meaning and constitutionality of the “government veto clause” in the False Claims Act’s public disclosure bar.

Washington v. Ditech Financial, LLC, No. 1:16-cv-06527 (N.D. Ill.). Represented home loan provider in Fair Debt Collection Practices Act suit.

Despot v. Allied Interstate, Inc., No. 15-15, 2016 WL 4593756 (W.D. Pa. Sept. 2, 2016). Obtained dismissal for provider of accounts receivable and customer retention services in Fair Debt Collection Practices Act suit.

AAMCO Transmissions, Inc. v. Romano, No. 13-5747, 2016 WL 7374544 (E.D. Pa. June 27, 2016). Assisted with briefing in obtaining vacatur and dismissal of judgment in non-compete action.

Fellows v. Barclays Bank Delaware, No. 1:15-cv-314 (W.D. Pa.). Represented financial services provider in federal court case involving claim under the Telephone Consumer Protection Act, and in AAA arbitration following a court ordered stay pending arbitration.

Cox v. Sherman Capital LLC, No. 1:12-cv-01654, 2016 WL 274877 (S.D. Ind. Jan. 22, 2016). Assisted with drafting of opposition to motion for class certification.

Ferrare v. IDT Energy, Inc., No. 14-4658, 2015 WL 3622883 (E.D. Pa. June 10, 2015). Assisted with briefing and research in obtaining stay of federal court class action pending state administrative proceedings.

Rankin v. Ashro, Inc., No. 2:15-cv-453, 2015 WL 1879959 (S.D. Ohio Apr. 23, 2015). Assisted with briefing and research in obtaining a stay of a class action pending arbitration.

Highmark Inc. et al. v. UPMC et al., No. 1988 WDA 2014 (Pa. Super. Ct.). Assisted with research in appeal of order staying arbitration proceedings.

Wasserman v. Burrell, et al., No. 1:12-cv-01521 (M.D. Pa.). Represented religious leader in suit against Pennsylvania Board of Funeral Directors.

United States ex rel. Smith v. Progressive Holdings, LLC, et al., No. 11-482, 2012 WL 2912757 (W.D. Pa. July 16, 2012). Obtained dismissal for financial services provider in qui tam False Claims Act suit.

State Courts

Chase Home Finance, LLC et al. v. Garrett, No. 1575 EDA 2017 (Pa. Super. Ct. 2017). Obtained quashal of appeal following trial court denial of motion to strike summary judgment.

Abdullah v. Davids, et al., No. 261 EDA 2017, 2017 WL 3613405 (Pa. Super. Ct. Aug. 23, 2017). Secured affirmance for bank employee defendants on appeal following trial court dismissal barring further suits by plaintiff without leave of court.

Rancosky v. Washington Nat’l Ins. Co., 170 A.3d 364 (Pa. 2017). Represented Mine Safety Appliances Company, LLC with amicus brief on the standard for bad faith in insurance disputes under 42 Pa.C.S. § 8371

Meyer-Chatfield Corp. v. Bank Financial Services Group, et al., Nos. 892 MAL 2016, 893 MAL 2016 (Pa. 2016). Assisted in drafting petition for allowance of appeal in matter involving injunction on the sale of bank owned life insurance.

Meyer-Chatfield Corp. v. Bank Financial Services Group, et al., No. 716 MAL 2016 (Pa. 2016). Assisted in drafting petition for allowance of appeal in discovery dispute in matter involving restrictive covenants and the sale of bank owned life insurance.

Estate of Bernard O. Wilkerson, No. 500 DE of 2016 (Court of Common Pleas of Philadelphia County, Orphans' Court). Represented client pro bono in achieving recognition of client's common law marriage to his late spouse as of July 4, 1990.

Abdullah v. Davids, et al., No. 161100075 (Court of Common Pleas of Philadelphia County). Represented bank employees in suit involving claims under the Pennsylvania Constitution; obtained dismissal and order barring further suits by plaintiff without leave of court.

BCJ Management, L.P. v. Cotton, No. 1168 C.D. 2016, 2017 WL 2915865 (Pa. Commw. Ct. July 10, 2017). Represented tenant on appeal of eviction proceeding.

Wells Fargo Bank, N.A. v. Kananavicius, No. 1258 EDA 2015, 2016 WL 5387458 (Pa. Super. Ct. Aug. 16, 2016), No. 425 EAL 2016 (Pa.). Secured affirmance of judgment in mortgage foreclosure action; successfully opposed petition for allowance of appeal to the Pennsylvania Supreme Court.

U.S. Bank v. Parker v. Bank of America, No. 15-CA-16, 2016 WL 2957033 (Ohio Ct. App. May. 16, 2016), No. 2016-1673 (Oh.). Argued case and obtained affirmance of dismissal of breach of contract action; successfully opposed adverse party's attempt to appeal to Ohio Supreme Court.

Commonwealth of Pennsylvania v. Terrance Williams and Tom Wolf, Governor of the Commonwealth of Pennsylvania, 129 A.3d 1199 (Pa. 2015). Co-authored amicus brief on behalf of the ACLU of Pennsylvania, the Philadelphia Bar Association, the NAACP, Pennsylvanians for Alternatives to the Death Penalty, and the Jewish Social Policy Action Network in support of Governor Tom Wolf's temporary reprieve of Terrance Williams, a death row inmate.

Butler Healthcare Providers, et al. v. Highmark Inc., et al., No. 1059 WDA 2015 (Pa. Super. Ct.). Represented health care insurance provider on appeal of \$5 million+ trial court judgment.

JP Morgan Chase Bank, N.A. v. Stranieri, No. 222 MDA 2015, 2015 WL 6087552 (Pa. Super. Ct. Aug. 28, 2015), No. 906 MAL 2015 (Pa.). Represented bank in obtaining quashal of appeal following favorable summary judgment decision in mortgage foreclosure action; successfully opposed petition for allowance of appeal to the Pennsylvania Supreme Court.

In re: Estate of Kimberly M. Underwood, No. 2014-E0681-29 (Court of Common Pleas of Bucks County, Orphans' Court). Represented client pro bono in achieving recognition of the country's first common law same-sex marriage through a retroactive application of *Obergefell v. Hodges*.

North Side Associates v. Barnes, No. LT 15-0321 (Court of Common Pleas, Allegheny County, Pennsylvania). Represented an innocent tenant residing in a section 8 housing complex in matter involving a landlord's

Smith v. Santander Consumer USA, Inc., No. 14CVH09-9460, 2015 WL 4418528 (Ohio Com.Pl. Mar. 20, 2015). Assisted with briefing and research in obtaining a stay pending arbitration.

MULTIMEDIA, PERSPECTIVES, NEWS & EVENTS

Perspectives

29 September 2017 Reed Smith Client Alerts

Pennsylvania Supreme Court Agrees That, to Prevail on Claim for Statutory Bad Faith, Policyholder Need Not Prove Insurer Acted with Self-Interest or Ill Will

11 April 2017 The Legal Intelligencer

The Fading Need to Prohibit Citation to Unpublished Decisions

2016 4 Indiana Journal of Law and Social Equality 121

Civil Disobedience to Overcome Corruption: The Case of Occupy Wall Street

17 June 2016 Reed Smith Client Alerts

U.S. Supreme Court Adopts a Limited Implied Certification Theory of FCA Liability, and Establishes a Robust New Materiality Requirement

22 April 2016 DRI-Certworthy

Judicial Factfinding on Appeal: Seeking Clarity in an Information Age

14 December 2015 Reed Smith Client Alerts

U.S. Supreme Court Agrees to Review the Validity of 'Implied Certification' Liability Under the False Claims Act

8 December 2015 Reed Smith Client Alerts

Appellate Scrutiny of Class Action Settlements

2015 38(2) Dublin University Law Journal

Judicial Conventions: An Examination of the U.S. Supreme Court's Rule of Four

18 November 2015 The Legal Intelligencer

Judicial Internet Research, Fact-Finding: Posner Reignites Debate

21 October 2015 DRI – For The Defense

Appellate Scrutiny of Class Action Settlements

14 May 2014 ABA Section of Antitrust Law - State Enforcement Committee Newsletter

The Expanding Role of Private Lawyers in *Parens Patriae* Lawsuits

The Fight Against Medical Monitoring Actions

2014 2 University of Baltimore Journal of International Law 23

After the Revolution: Egypt's Changing Forms of Corruption

5 December 2013 Reed Smith Client Alerts

Third Circuit Elucidates Waiver Standards

News

8 June 2018

Reed Smith Earns 2018 Legal 500 USA Rankings in 40 Practice Areas

Events

12 October 2017

Class Action Defense Update

3 June 2016

2016 Law and Society Conference

Civil Disobedience to Overcome Corruption: The Case of Occupy Wall Street

19 March 2016

ASCL Younger Comparativists Committee Global Conference

Civil Disobedience to Overcome Corruption: The Case of Occupy Wall Street

1 June 2015

Institute for Global Law Policy Conference

Improper Dependencies and the Corruption of Egyptian Civil Society

15 November 2014

Symposium on the Constitution of Conventions/Conventional Constitutionalism

Judicial Conventions: An Examination of the Rule of Four

Blog Posts

9 October 2017 The Policyholder Perspective

“Smoking Gun” Still Not Necessary To Prove Insurer Violated Pennsylvania’s Bad-Faith Statute

19 June 2016 Life Sciences Legal Update

U.S. Supreme Court Decision Upholds Implied Certification Theory of False Claims Act Liability, Articulates New Limits

CREDENTIALS

Education

- University of Pittsburgh School of Law, 2011, J.D., cum laude, *University of Pittsburgh Law Review* - Senior Articles Editor; Order of the Barristers; John H. Morgan Memorial Scholarship; CALI Award for Excellence in Criminal Procedure, Advanced Legal Writing, and Federal Appellate Advocacy; Willem C. Vis International Commercial Arbitration Moot Court Team; Study Abroad - Bucerius Law School, Germany (2009) and University of Bologna, Italy (2010)
- University of Heidelberg, 2008, Study – Geschichte (History) and Deutsch als Fremdsprache (German as a Foreign Language), Baden-Württemberg Scholarship
- Bucknell University, 2007, B.S., Management, cum laude, Dean's List; Patriot League Academic Honor Roll; Men's Golf Team

Professional Admissions & Qualifications

- Pennsylvania
- Illinois

Court Admissions

- All State Courts - Pennsylvania
- All State Courts - Illinois
- Supreme Court - United States
- U.S. Court of Appeals - Second Circuit
- U.S. Court of Appeals - Third Circuit
- U.S. Court of Appeals - Fourth Circuit
- U.S. Court of Appeals - Sixth Circuit
- U.S. Court of Appeals - Seventh Circuit
- U.S. Court of Appeals - Eleventh Circuit
- U.S. Court of Appeals - Ninth Circuit
- U.S. Court of Appeals - Federal Circuit
- U.S. District Court - Northern District of Illinois

- U.S. District Court - Southern District of Illinois
- U.S. District Court - Western District of Pennsylvania
- U.S. District Court - Eastern District of Pennsylvania
- U.S. District Court - Southern District of Indiana

Clerkships

- Honorable D. Michael Fisher, U.S. Court of Appeals - Third Circuit

Languages

- German

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